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TRANSCRIPT OF RECORD.

UNITED STATES CIRCUIT COURT OF APPEALS,

FOR THE

THIRD CIRCUIT.

MARCH TERM, 1892.

No. 7.

NEW CHESTER WATER COMPANY, THE SOUTH CHESTER WATER COMPANY, RICHARD WOOD, GEORGE WOOD, WALTER WOOD AND STUART WOOD, TRADING AS R. D. WOOD AND COMPANY,

Appellants,

vs.

THE HOLLY MANUFACTURING COMPANY AND SAMUEL R. BULLOCK AND WILLIAM S. MERCER, CO-PARTNERS, TRADING AS SAMUEL R. BULLOCK AND COMPANY,

Appellees.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES IN AND FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

FILED JANUARY 7, 1892.

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APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES IN AND FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

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IN THE CIRCUIT COURT OF THE UNITED STATES, IN AND FOR THE EASTERN DISTRICT OF PENNSYLVANIA, IN THE THIRD CIRCUIT. (1)

THE HOLLY MANUFACTURING COMPANY, a corporation organized, existing and transacting its business under the laws of the State of New York, having its place of business in the City of Lockport, in the County of Niagara and State of New York, and a citizen of the State of New York.

vs.

THE NEW CHESTER WATER COMPANY and THE SOUTH CHESTER WATER COMPANY, corporations organized and existing under the laws of the State of Pennsylvania, located at and transacting their business, and having their office in the City of Chester, in the County of Delaware, in the said district of Pennsylvania, and citizens of the State of Pennsylvania; William G. Hopper and Harry S. Hopper, citizens of the State of Pennsylvania, and trading under the firm name of William G. Hopper & Co. William Bucknell, a citizen of the State of Pennsylvania, and Richard Wood, George Wood, Walter Wood and Stuart Wood, trading under the firm name of R. D. Wood & Co., and citizens of the State of Pennsylvania, and THE BIENVILLE WATER SUPPLY COMPANY, a corporation organized, existing and transacting its business under the laws of the State of Alabama, and a citizen of the State of Alabama.

October Sessions, 1888,

No. 3.

UNITED STATES OF AMERICA, EASTERN DISTRICT OF PENNSYLVANIA. (2)

Pleas and proceedings before the Honorable, the Judges of the Circuit Court of the United States, in and for the Eastern District of Pennsylvania, in the Third Circuit, of October Sessions, 1888, No. 3.

It is thus contained:

Be it remembered, that on the 19th day of September, A. D., 1888, The Holly Manufacturing Company, by its solicitors, Rowland Evans, Esq., R. L. Ashhurst, Esq., and Messrs. L. F. and G. W. Bowen, come into Court here and file its bill of complaint against The New Chester Water Company, The South Chester Water Company, William G. Hopper and Harry S. Hopper, citizens of the State of Pennsylvania, and trading under the firm name of William G. Hopper & Co.; William
(3) Bucknell and Richard Wood, George Wood, Walter Wood | and Stuart Wood, trading under the firm name of R. D. Wood & Co., and The Bienville Water Supply Company, which, with the endorsement and return thereto, is in the words and figures following, to wit:

(4) IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY *vs.* THE NEW CHESTER WATER COMPANY; THE SOUTH CHESTER WATER SUPPLY COMPANY; THE BIENVILLE WATER COMPANY; William G. Hopper and Harry S. Hopper, trading, etc.; Richard Wood, George Wood, Walter Wood and Stuart Wood, trading, etc.; and William Bucknell.	In Equity. October Sessions, 1888, No. 3.

To the Honorable the Judges of the Circuit Court of the United States for the Eastern District of Pennsylvania:

The Holly Manufacturing Company, a corporation organized, existing and transacting its business under the laws of the State of New York, having its place of business in the city of Lockport, in the county of Niagara and State of New York, and a citizen of the State of New York, brings this its bill of complaint against The New Chester Water Company and The South Chester Water Company, corporations organized and existing under the laws of the State of Pennsylvania, located at and transacting their business and having their office in the city of Chester,
(5) in the county of Delaware, | in said district of Pennsylvania, and citizens of the State of Pennsylvania; William G. Hopper and Harry S. Hopper, citizens of the State of Pennsylvania, and trading under the firm name of William G. Hopper & Co.; William Bucknell, a citizen of the State of Pennsylvania; and Richard Wood, George Wood, Walter Wood and Stuart Wood, trading under the firm name of R. D. Wood & Co., and citizens of the State of Pennsylvania; and The Bienville Water Supply

Company, a corporation organized, existing and transacting its business under the laws of the State of Alabama, and a citizen of the State of Alabama.

And thereupon your orator complains and says:

1. That the said The New Chester Water Company and The South Chester Water Company are corporations organized under the laws of the State of Pennsylvania for the purpose of furnishing to the inhabitants of the city of Chester, in the county of Delaware, in said State, water for domestic and other purposes, and as such the said The New Chester Water Company is the owner and in the possession of and occupies certain real estate in said city of Chester, for the use and purposes of its said business, upon which there has been erected and now stands a pumping-engine-house for the purpose of its said business, and so being the owner of said real estate and with the view of carrying into effect the purpose of its existence, enabling it to furnish water to the inhabitants of said city of Chester, and thus to carry into effect the objects of its organization, heretofore, and prior to the third day of August, 1887, to wit, on the twenty-first day of March, A. D. 1887, made and entered into an agreement with Samuel R. Bullock and William S. Mercer, citizens of the State of New York, carrying on business under the firm name of Samuel R. Bullock & Co., to construct ready for operation a complete system or set of water-works in said city of Chester, and upon its said plant and real estate so far as the same was necessary; and as a part of said system to erect and construct said engine and pump-house, and to place | therein (6) the necessary pumping machinery. In and by said contract the said The New Chester Water Company did agree to pay said Samuel R. Bullock & Co. a certain sum in the bonds of said The New Chester Water Company and The South Chester Water Company and in the shares of the capital stock of said companies.

2. With the view and for the purpose of enabling said Samuel R. Bullock & Co. to obtain the funds and means with which to carry out and complete the said contracts on their part, the said The New Chester Water Company and The South Chester Water Company thereupon and prior to said third day of August, 1887, did each severally make, execute, and deliver to The Farmers' Loan and Trust Company, a corporation existing under the laws of the State of New York, a mortgage upon all its real estate, franchises, and the rents, issues, and profits to be derived therefrom, in trust to secure the holders of the bonds to be issued by said companies respectively, that is to say, by the said The New Chester Company in the sum of $500,000, and by the said The South Chester Company in the sum of $300,000, and the said companies did thereupon respectively make and execute their bonds in the sums as above mentioned and did each issue and deliver the said bonds together with certificates for the full amount of its capital stock, being the sum of $1,000,000 par value in the former company and $600,000 in the latter company, to said Samuel R. Bullock & Co. for the purpose and intent of enabling said Bullock & Co. to proceed with and procure the construction

(7) and completion of the said water supply system, and to be used for that purpose, and to the payment to said Bullock & Co. therefor when completed. These mortgages your orator is informed and believes are claimed to be prior to all other mortgages executed by said mortgagors respectively. The mortgage of The New Chester Water Company bears date first day of April, 1887. The mortgage of The South Chester Water Company also bears date the first day of April, 1887. Both said mortgages are recorded in the office for the recording of deeds, &c., in the county of Delaware.

3. And your orator further complaining says, that on the third day of August, 1887, the said Samuel R. Bullock & Co. for the purpose and with the view of complying in part with the said contract with said water companies, made and entered into an agreement in writing with your orator, in and by which your orator did agree to manufacture and set up in working order in the aforesaid pump-house of the said The New Chester Water Company, situated in the city of Chester, the following machinery, namely, two Gaskill crank and fly-weel horizontal pumping engines and certain connections thereof, more particularly described in the said contract, as appears by the copy thereof, hereto annexed, marked "Exhibit A," which your orator prays may be taken as a part of this bill. In consideration whereof said Samuel R. Bullock & Co. did agree to pay your orator the sum of $50,000, as and in the manner in said contract specifically set forth.

4. That in pursuance of said agreement with said Samuel R. Bullock & Co., your orator has, as agreed for, constructed and erected the said two pumping engines as particularly specified in said contract, and has in all ways fulfilled and performed said contract on its part, and after said engines were so completed and set up the said Samuel R. Bullock & Co. accepted the same in full compliance on the part of your orator of the said contract, and both said South Chester Water Company and said New Chester Water Company are now supplied with water pumped by said engines.

5. That the said Samuel R. Bullock & Co. have not, nor has any person in their behalf, paid to your orator the said sum of $50,000, or any part thereof, except the sum of $8,333.33. After the completion of your orator's performance said Bullock & Co. did account with your orator of, and concerning the amount due thereon for said pumping engines, and on such accounting there was found to be due and owing your orators on the eleventh day of August, 1888, the sum of $41,667, which said sum has not, nor has any part thereof, been paid.

(8) 6. That in and by the contract last aforesaid, under which your orator supplied said machinery, it was expressly provided that your orator should have a lien upon all of said engines, and the connections thereof, for all unpaid purchase-money, and that your orator might remain in and have full possession thereof until the whole amount of the purchase-price of said engines and connections should have been fully paid to your orator,

and your orator under and in accordance with said provision, and of its right to retain the legal ownership, possession, and control of said pumping engines and connections, has during all the time heretofore retained the actual possession, custody, and control of the same, and is now in the actual possession, custody, and control thereof. And to make manifest and maintain its said control, possession, and custody your orator has retained its servant in direct, open, and exclusive charge thereof.

7. And your orator further complaining says, that the said The Bienville Water Supply Company is a corporation organized, existing, and transacting its business under the laws of the State of Alabama for the purpose of furnishing to the inhabitants of the city of Mobile, in said State of Alabama, a supply of water for domestic and other purposes, and as such the owner of, and in the possession of, certain real estate in or near said city of Mobile, in said State of Alabama, for the use and purposes of its said business, upon which there has been erected and now stands a pumping-engine house for the purposes of its said business. And so being the owner of said real estate, and with the view of carrying into effect the purposes of its existence and enabling it to furnish water to the inhabitants of said city of Mobile, and to carry into effect the objects of its existence, the said, The Bienville Water Supply Company, heretofore and prior to the twenty-fourth day of February, 1887, made and entered into an agreement with the said firm of Samuel R. Bullock & Co., to construct ready for operation a complete system or set of water-works in or near said city of Mobile, and upon its said plant and real estate so far as the same was | necessary, and as a part of said (9)
system to erect and construct said engine and pump-house, and to place therein the necessary pumping machinery, and in and by which contract the said The Bienville Water Supply Company did agree to pay said Samuel R. Bullock & Co. therefor a certain sum in the bonds of the said The Bienville Water Supply Company, and in the shares of the capital stock of said company.

8. And with the view and for the purpose of enabling said Samuel R. Bullock & Co., to obtain the funds and means with which to carry out and complete the said contract on their part, the said The Bienville Water Supply Company did thereupon, and prior to said twenty-fourth day of February, 1887, make, execute, and deliver to the said defendant The Farmers' Loan and Trust Company a mortgage upon all its real estate, franchises, and the rents, issues, and profits to be derived therefrom, in trust to secure the holders of the bonds to be issued by said The Bienville Water Supply Company, in the sum of $750,000, and did also thereupon make and duly execute its bonds in the aggregate sum of $750,000, and did issue and deliver the said bonds together with certificates for the full amount of its capital stock, being the sum of $500,000 par value, to said Samuel R. Bullock & Co., to be used for the construction of said water-supply system, and to enable the said Samuel R. Bullock & Co., to proceed with and complete the same, and to be payment to them therefor when completed.

9. And your orator further complaining says that on the twenty-fourth day of February, 1887, the said Samuel R. Bullock & Co., for the purpose and with the view of complying in part with their said contract with said The Bienville Water Supply Company, made and entered into an agreement in writing with your orator, in and by which your orator did agree to manufacture and set up in working order in the aforesaid pump-house of the said Bienville Water Supply Company certain machinery, to wit, two Gaskill crank and fly-wheel horizontal pumping engines and con-
(10) nections, more par- | ticularly specified and described in the said contract, a copy whereof is hereto annexed as Exhibit B, for which said Samuel R. Bullock & Co., did agree to pay your orator the sum of $50,000, as and in the manner in said contract specifically set forth, as appears by the copy of said contract hereto annexed as aforesaid, which your orator prays may be taken as a part of this bill.

10. That in pursuance of said agreement with said Samuel R. Bullock & Co., your orator has constructed and erected the said two pumping engines and connections as particularly specified in said contract, and has in all ways fulfilled and performed said contract on its part, but that the said Samuel R. Bullock & Co. have not, nor has any person in their behalf, paid to your orator the said sum of $50,000 in full, but has made partial payments thereon; and after said engines were so completed and set up the said Samuel R. Bullock & Co. accepted the same in full compliance on the part of your orator of the said contract; and on an accounting heretofore had between your orator and said Samuel R. Bullock & Co. there was found to be due and unpaid to your orator, on the eleventh day of August, 1888, the sum of $25,000, which sum still remains and now is due and unpaid of said $50,000.

11. That in and by the contract last aforesaid it was expressly provided that your orator should have a lien upon all of said engines and the connections thereof, and that your orator might remain in and have full possession thereof until the whole amount of the purchase-price of said engines and connections should have been fully paid to your orator, and your orator, under and in accordance with said provision and of its right to retain the legal ownership, possession, and control of said pumping engines and connections, has during all the time heretofore retained the possession, custody, and control of the same, and is now in the actual possession, custody, and control thereof. And to maintain and make manifest said control, possession, and custody your orator has retained its servant in direct, open, and exclusive charge thereof.

(11) 12. And your orator further complaining says that subsequent to the making of said several contracts between your orator and Samuel R. Bullock & Co. for the construction of said engines and pumps and connections, the said Samuel R. Bullock & Co., in order to raise the money to carry on the construction of said several systems of water-works, and to pay, among other things, for the construction and erection of said pumping engines and other machinery so contracted for with your orator as aforesaid, and prior to January 1st, 1888, made an arrangement with

the defendants William G. Hopper and Harry S. Hopper, trading as William G. Hopper & Co., by which they the said William G. Hopper & Co. were to loan and advance, or to procure to be loaned or advanced, to said Samuel R. Bullock & Co. certain large sums of money upon the pledge and collateral security of the aforesaid bonds and stocks so issued by said several Water companies, and in accordance therewith said Samuel R. Bullock & Co. did pledge and deliver to the said William G. Hopper & Co. the said bonds and stocks as security for such sums of money as they might so loan or advance or cause or procure to be loaned or advanced to said Samuel R. Bullock & Co.

That the pledge of said bonds and stock of the said three water companies hereinbefore set forth was one and the same transaction, and the said William G. Hopper & Co. thereby were given the right to hold and retain all said bonds and stock until such entire advances and interest thereon should be fully paid.

13. That in pursuance of said arrangement and upon the said pledge of said bonds and stocks, the said William G. Hopper & Co. did so advance and loan from time to time, or procure to be advanced and loaned from time to time, certain sums of money to said Samuel R. Bullock & Co., aggregating over the sum of $1,000,000. The said William G. Hopper & Co. were at the time fully informed and had knowledge of the fact that the said water-works, for the completion of which their advances were to be used, were in an unfinished condition, and afterwards learning that the money which they | had advanced upon the faith of said bonds (12) and stocks was not sufficient to complete the same, they delined to make any further advances on account thereof.

14. Before the said refusal of the said Hopper & Co. to make such further advances as hereinabove set forth the defendants Richard Wood, George Wood, Walter Wood, and Stuart Wood, composing the fire of R. D. Wood & Co., had furnished to said Samuel R. Bullock & Co. large quantities of iron pipe and other materials to be used in the construction of said several water-works and were under contract to deliver certain other large amounts of such iron pipe and materials to be used in the completion of said water-works for or on account of which the said Samuel R. Bullock & Co. were indebted to the said R. D. Wood & Co. in a large amount, and in consideration and on account thereof, and in view of the fact that said Hopper & Co. had so declined to make such further advances, and for the purpose of completing the construction of said water-works in accordance with the contracts of said Samuel R. Bullock & Co. with the said water companies respectively, and for the purpose of obtaining payment for the pipe which they had as aforesaid and which they might thereafter furnish, and to secure the amounts already due said R. D. Wood & Co. for the iron pipe and other materials previously furnished and contracted to be furnished the said R. D. Wood & Co., Samuel R. Bullock & Co., and William G. Hopper & Co. thereafter and sometime in the fall of 1887 made and entered into an agreement, which your orator is informed and believes was in writing, in and by which the said William G. Hopper & Co. agreed to advance or procure to be advanced to the

said Samuel R. Bullock & Co. or R. D. Wood & Co., or both, for the purpose of completing the construction of said several water-works, other sums of money aggregating $200,000, and in and by which the said William G. Hopper & Co. were to retain and hold the said bonds and stocks as collateral security as well for the sums already advanced as for said further sums that they might advance up to said $200,000. Your
(13) orator is further | informed that in and by the said agreement it was stipulated that said R. D. Wood & Co. should not apply more than $25,000 of the said new advances towards the payment of their claim for materials until or unless the other claims for labor and material at the Chester water-works had been paid in full. In and by the said agreement, as your orator is informed and believes and therefore avers, the said R. D. Wood & Co. promised and agreed to complete the said several water-works, and to pay or cause to be paid the price or cost of the construction of the same in accordance with the contracts previously made by said Samuel R. Bullock & Co. by a certain date not precisely known to your orator but long since past, free and discharged of all claims and liens prior or superior to the lien of the mortgage given to secure the bonds so pledged to said Hopper & Co., to the end and with the intent that the said several systems of water-works should be completed and entirely relieved from any liens, charges, or incumbrances thereupon that could be prior and antecedent to the lien of said mortgages so as aforesaid made to secure the bonds.

15. It was further provided by said agreement that upon the final sale and disposal of said bonds, from the proceeds thereof there should be first paid and satisfied the advances made or procured to be made by the said William G. Hopper & Co., together with their commissions as brokers and the interest due on said advances, and next were to be paid in full all amounts remaining due to persons who should have furnished and provided any materials or other things for the construction and completion of said several systems of water-works, and after these payments had been made the balance of the proceeds of said bonds should be paid and belong to R. D. Wood & Co.

16. The true intent and effect of the said agreement, from the best information your orator can obtain on the subject, was that the said R. D. Wood & Co. practically took the place of said Samuel R. Bullock
(14) & Co., both in the obliga | tion to perform the said contracts for the completion of the said several water-works and in the reception of the benefits to be derived thereby, all of which, as your orator believes, will definitely and clearly appear when, as hereinafter prayed, the said agreement is produced.

17. And thereupon, as your orator is informed, the said William G. Hopper & Co. from time to time did advance or procure to be advanced to the said Samuel R. Bullock & Co., under and pursuant to and in the faith of said agreement last above set forth, to which said R. D. Wood & Co. were a party, the further sum of $200,000, so that the advances in the aggregate made and procured to be made by them, upon the faith and pledge of said bonds and stocks, amounted to the sum of $1,200,000.

And your orator further complaining shows that a portion of or all of the money furnished as aforesaid to said S. R. Bullock & Co. and said R. D. Wood & Co. by said Hopper & Co. was loaned and advanced by the defendant William Bucknell, and therefore, as your orator is informed, said Bucknell claims to be interested in the subject matters hereinbefore set forth to the extent of the amount loaned or advanced by him. Wherefore your orator has also united him as a defendant herein.

18. And your orator further shows that at the times when the said advances were so as aforesaid made and procured to be made by the said William G. Hopper & Co., and at and before the time of the making of the said contract or agreement between the said Bullock & Co., Hopper & Co., and R. D Wood & Co., they severally, and also the said William Bucknell, had knowledge of the said contracts between your orator and Samuel R. Bullock & Co., and of the provisions and effect thereof, and that said Samuel R. Bullock & Co. had not paid your orator the amount so as aforesaid unpaid on said several contracts.

And your orator is advised, and therefore charges the fact to be, that any right or interest that any of said defendants might have or assert in or to said machinery as an appurtenant or accretion to said real estate or otherwise, is subject | and subordinate to the right of your orator, as (15)
reserved and specified in the contract between your orator and said Bullock & Co., as hereinbefore set forth.

19. Your orator further complaining shows that subsequent to the time of the making of the said agreement between said Samuel R. Bullock & Co., said William G. Hopper & Co., and said R. D. Wood & Co., hereinbefore set forth, and prior to the time of the shipment and setting up of either of the said pumping engines and connections at Chester, and of the shipping and setting up of the second engine and connections at Mobile aforesaid, the said Samuel R. Bullock & Co. were in default in their payments of the amount which had then become due upon said contract for the erection of said engines and connections at Mobile, and informed your orator that they were relying upon moneys to be advanced or procured to be advanced by said William G. Hopper & Co. for the means to make payments upon said several contracts then due and thereafter to become due, and that he had no other resources from which to make such payments. Your orator, fearing the said Samuel R. Bullock & Co. would be unable to make said payments as they became due, declined to ship said engines and connections, and set the same up, without some further assurance that the payments would be met as they became due, and thereupon the said Samuel R. Bullock & Co. informed your orator of and concerning the said agreement between said Samuel R. Bullock & Co., said William G. Hopper & Co., and said R. D. Wood & Co., under and pursuant to said contract.

And in view thereof, and upon the faith and credit of said R. D. Wood & Co. under said contract, and believing and expecting that said R. D. Wood & Co. would in good faith fully perform the said contract which they had so made, and relying thereon your orator thereupon shipped from their place of manufacture the said second engine and connections

for Mobile and the said two engines and connections for Chester, and erected the same upon the plants aforesaid, as hereinbefore set forth, which they otherwise would not have done.

(16) 20. That your orator has repeatedly asked and demanded of said Samuel R. Bullock & Co., the said William G. Hopper & Co., and of said R. D. Wood & Co. the payment of the balance so remaining due for the said pumping machinery and connections so furnished by your orator, and neither of the defendants have gainsaid or denied that the said amount is justly due and owing to your orator for said pumping machinery and connections, and the said Samuel R. Bullock & Co. concede and admit that the position and claim of your orator is in all respects well founded as herein set forth, and there is no controversy between your orator and said Samuel R. Bullock & Co. in respect thereto, yet so it is that neither the said Samuel R. Bullock & Co. nor any of said defendants have paid to your orator the said amount so justly due and owing to your orator, nor any part of the several sums contracted to be paid to your orator by the said Samuel R. Bullock & Co., hereinbefore set forth, saving and excepting the payments on account hereinbefore stated.

21. Your orator further complaining says that the said advances so as aforesaid made or procured to be made by the said William G. Hopper & Co. have not been repaid in whole or in part and that the said W. G. Hopper & Co. still hold and retain the said bonds for the advances so as aforesaid made and procured to be made, and under and pursuant to the agreement so as aforesaid made between the said Samuel R. Bullock & Co., said R. D. Wood & Co., and said William G. Hopper & Co., and they or some of the parties interested therein have negotiations pending with other parties to your orator unknown, for the sale and transfer of the said bonds, and your orator fears that unless restrained by the injunction of this Honorable Court they will complete such negotiations, and that said bonds will pass into the hands of parties unknown to your orator, who may claim that they took the same without knowledge of the rights and interests of your orator in said pumping machinery and connections, and attempt to assert a title to the same under and by virtue of said mortgages, free and clear of the claims of your orator in the premises.

(17) Wherefore your orator stands in need of equitable relief and prays:—

First.—That your Honorable Court will decree that the agreements dated the twenty-fourth day of February, 1887, and third day of August, 1887, and made between the said Samuel R. Bullock & Co. and the plaintiff, are valid and binding, and that under the said agreements and the action taken thereunder the plaintiff has retained property in and possession of the said engines, machinery, and connections thereof, free from and superior to any and all liens and claims of any other parties.

Second.—That the defendants have not, nor have any of them, by reason of the placing or erection of the said engines, machinery, and the connections thereof upon the premises covered by said mortgages, acquired

any right or title in and to the said engines, machinery, and connections thereof by accretion or otherwise, except under and subordinate to the plaintiff's rights.

Third.—That the said defendants R. D. Wood & Co. and W. G. Hopper & Co. be decreed to make full discovery and statement of all contracts that they or either of them have made with the said Samuel R. Bullock & Co. for the construction or completion of the said water-works or for the payment therefor, and to produce and bring into court here all such contracts or agreements as are in writing.

Fourth.—That the plaintiff is entitled to be subrogated to the benefit of the said contract between the said Samuel R. Bullock & Co., R. D. Wood & Co., and W. G. Hopper & Co., for the completion of the said water-works by said R. D. Wood & Co., free and clear of all claims prior to said mortgages, and that the said R. D. Wood & Co. be decreed to account for and pay to your orator the sums due to them as aforesaid.

Fifth.—That the said defendants The New Chester Water Company; The South Chester Water Company; William G. | Hopper and Harry S. (18) Hopper, trading as aforeaaid; Richard Wood, George Wood, Walter Wood, and Stuart Wood, trading as aforesaid, and William Bucknell, may be decreed to pay your orator the amount so ascertained and admitted to be due to your orator as aforesaid for said machinery furnished for said New Chester Water Company, together with interest thereon and costs of this suit, by a short day to be appointed for that purpose, or in default thereof that the above named defendants, and the other defendant and all persons claiming under them, be absolutely foreclosed of all right or equity of redemption in or to the said pumping engines and machinery and connections specified and described in Exhibit A, and now standing in the pump-house of the said New Chester Water Company, in the city of Chester, and that thereupon the said defendants severally be enjoined and restrained from hindering your orator from removing and carrying away said machinery.

Sixth —That the said defendants be severally enjoined and restrained from selling or in any manner disposing of any of the bonds or stock of either of said New Chester Water Company or of said South Chester Water Company, which may be in their possession, custody, or control of any of them respectively, until the right of your orator in said machinery described in Exhibit A is established and made effectual by decree of this Honorable Court, and thereafter until further order of this Court in the premises.

Seventh.—That the said defendants The Bienville Water Supply Company; William G. Hopper and Harry S. Hopper, trading as aforesaid; and Richard Wood, George Wood, Walter Wood, and Stuart Wood, trading as aforesaid, and William Bucknell, may be decreed to pay your orator the amount so ascertained and admitted to be due to your orator as aforesaid for the machinery furnished for said Bienville Water Supply Company, together with interest thereon and costs of this suit, by a short

day to be appointed for that purpose, or in default thereof that the above-
(19) named | defendants, and the other defendant and all persons claiming under them, be absolutely foreclosed of all right or equity of redemption in or to the said pumping engines and machinery and connections specified and described in Exhibit B, and now standing in the pump-house of the said Bienville Water Company, in the city of Mobile, in the State of Alabama, and that thereupon the said defendants severally be enjoined and restrained from hindering your orator from removing and carrying away said machinery.

Eighth.—That the said defendants be severally enjoined and restrained from selling or in any manner disposing of any of the bonds or stock of either of said The Bienville Water Supply Company which may be in their possession, custody, or control of any of them respectively, until the right of your orator in said machinery described in Exhibit B is established and made effectual by decree of this Honorable Court, and thereafter until further order of this Court in the premises.

Ninth.—Such further and other relief as your orator may be in equity entitled to receive in the premises.

Tenth.—And may it please your Honors to grant unto your orator a writ of subpœna directed to said defendants, The New Chester Water Company, The South Chester Water Company, The Bienville Water Supply Company, William G. Hopper, Harry S. Hopper, William Bucknell, Richard Wood, George Wood, Walter Wood, and Stuart Wood, commanding them to be and appear before this Honorable Court, on a day certain to be therein named, then and there to answer the premises and to stand to, perform, and abide such further orders, direction, and decree as may be made against them.

And your orator will ever pray, &c.

ROWLAND EVANS,
R. L. ASHHURST,
L. F. & G. W. BOWEN,
Solicitors for Complainant.

(20) EXHIBIT A.

THIS AGREEMENT made and concluded this Third day of August, A. D., 1887, by and between *Samuel K. Bullock & Co.*, of No. 11 Wall street, in the city and state of New York, party of the first part; and the *Holly Manufacturing Company* of the city of Lockport in the same state, party of the second part.

Witnesseth, that the said party of the second part, in consideration of the payments hereinafter mentioned, to be made to it by the said party of the first part, does hereby and herein covenant, promise and agree, to and with the said party of the first part that it,

the said party of the second part, shall and will, at its own proper cost manufacture for the party of the first part, two (2) of the Gaskill crank and fly-wheel horizontal Pumping Engines, having H. P. cylinder 21 inches diameter, L. P. cylinder 42″ diameter, plungers 18½″ diameter, stroke 36″; and hereby guarantee them to pump four (4) million gallons each of water per 24 hours, against a head of 260 feet, friction included, at a piston speed of 105 feet per minute, for the sum of Fifty Thousand Dollars ($50,000) and to set them up in complete working order upon foundations furnished by the party of the second part in time to allow the party of the first part to get said foundations ready for placing the said pumping engines as hereinafter stated; one of said pumping engines to be shipped from the factory of the party of the second part in three and a half (3½) months from this date, and the other of said pumping engines to be shipped in five and a half (5½) months from this date, and each of them respectively to be set up in running order in one month from date of delivery at the pumping station in Chester, Penn.

The price above named is to include the complete work of erecting and putting in place both pumping engines and all necessary steam and water pipes needed within the walls of the engine-room, also the furnishing with the necessary connections inside the pump room of a direct acting steam-pump of sufficient capacity to easily supply the water needed by the boilers, which boilers are to be furnished by the party of the | first part, (21) for generating steam for the plant, also a complete set of wrenches, gauges, brass oil trays and oilers; for each engine,—gauges to be nickel-plated, and have the name of "Samuel R. Bullock & Co., Contractors, New York," engraved on the dials thereof.

It is expressly understood and agreed that the delivery as to time shall be strictly complied with on the part of the party of the second part, and any failure to so deliver the Pumping Engines aforesaid, unavoidable delays and accidents excepted will result in the payment by the party of the second part to the party of the first part as liquidated damages, of fifty ($50) dollars per day, for each day's delay beyond the time hereinbefore specified.

All materials used in the construction of said pumping engines are hereby guaranteed to be of the best description of their kind.

The party of the first part agrees that they will, at their own cost, construct and prepare the necessary buildings and foundations for said engines and connections, in a proper manner of materials of the very best description of their kind, according to plans therefor to be made by the party of the second part, and to bring the suction and discharge mains, and steam and feed pipes from the boilers, to convenient and accessible points within said pump room, all to be done in time so that the party of the second part shall not be delayed in completing said engines and connections by the time herein mentioned.

In the event however of delay in completing the building foundations beyond the time named for shipments of the engines, such delay shall work as equal extension of time for such shipments.

When said engines and connections are completed and ready for service, and on notice thereof to the party of the first part to that effect, the

same shall be subject to a fair trial of their capacity and efficiency, for not exceeding 24 hours, and on the successful testing thereof the liability of the party of the second part hereunder shall cease and determine, but
(22) it is expressly understood and agreed that the | party of the second part shall have a lien on all of said engines and connections, and the said party of the second part may remain in and have full possession thereof until the whole amount of the purchase price of said engines and connections shall have been fully paid to the party of the second part or its assigns.

The party of the first part is to furnish steam and water for any and all tests of said engines and connections in due time and in sufficient quantities failing in which for fifteen days, any part of the purchase money then unpaid shall thereupon become due and payable, but without prejudice to making a proper test of said engines and connections at any time within six months thereafter, if required by either party hereto.

And the party of the first part hereby further agrees to pay the party of the second part for the said engines and connections so completed and ready for service as herein set forth, the said sum of fifty thousand dollars as follows:

$8,333.33 when the first engine is delivered in Chester.
8,333.34 when the first engine has been properly run 30 days and 8,333.33 in thirty days thereafter.
$8,333.33 when the second engine is delivered in Chester.
$8,333.34 when the second engine has been properly run 30 days and 8,333.33 in thirty days thereafter.

In Witness Whereof The party of the first part hath hereto set its hand and seal, and the party of the second part hath caused this agreement to be signed by its Secretary and its corporate seal to be affixed, the day and year first written above.

(Signed) SAMUEL R. BULLOCK & CO. [SEAL.]
Signed) THE HOLLY MANUFACTURING CO.
C. G. HILDRETH,
[SEAL.] *Secretary.*

(23)

EXHIBIT B.

THIS AGREEMENT made and concluded this twenty-fourth day of February A. D., 1887, by and between *Samuel R. Bullock & Co.*, of No. 11 Wall street, in the city and State of New York, party of the first part; and the *Holly Manufacturing Company* of the city of Lockport in the same state, party of the second part.

Witnesseth, that the said party of the second part, in consideration of the payments hereinafter mentioned, to be made to it by the said party of the first part, does hereby and herein covenant, promise and agree, to and with the said party of the first part, that it, the said party of the second part, shall and will, at its own proper cost manufacture for the party of the first part, two (2) of the Gaskill Crank and fly wheel hori zontal Pumping Engines, having H. P. cylinders 21 inches diameter, L.

P. cylinders 42″ diameter, plungers 20″ diameter, stroke 36″; and hereby guarantees each of them to pump five million U. S. gallons of water per 24 hours against a head of 200 feet for domestic service, or against a head of 300 feet for fire service exclusive of friction, at a piston speed not to exceed 112 feet per minute, and that both together will discharge ten million gallons in 24 hours under the same pressure, less the increased friction in the main, or that each of said engines shall be capable of lifting six millions gallons of water under the same conditions, at a piston speed not to exceed 135 feet per minute, and that each engine will perform under the domestic head of 200 feet at test duty of 100 million foot pounds for each 100 pounds of coal consumed, said duty to be based on a boiler evaporation of ten pounds of feed water to one pound of coal.

And the party of the second part further agrees to set up said pumping engines in complete working order in the pumping station of The Beinville Water Supply Co., near Mobile, Ala. (upon foundations furnished by the party of the first part, from drawings prepared by the party of the second part in time to allow the party of the first part to get said foundations ready for erecting thereon the said pumping engines within | the dates herein stated therefor), for the sum of fifty thousand (24) dollars, ($50,000) payable as hereinafter set forth, said price being based upon present rates of freight, and if there be any material increase over the present rates at the time of shipment, said increase shall be added to said price of $50,000. It is further agreed that one of said engines shall be set up so that it can be used for a test on July 1, 1887, and the other erected not later than three months thereafter.

The price above-named price is to include the complete work of erecting and putting in place both pumping engines and all necessary steam and water pipes needed within the walls of the engine room, also the furnishing with the necessary connections inside the pump room of a direct acting steam pump of sufficient capacity to easily supply the water needed by the boilers, which boilers are to be furnished by the party of the first part, for generating steam for the plant, also a complete set of wrenches, gauges, brass oil trays, drip pans and oilers, for each engine.

All materials used in the construction of said pumping engines are hereby guaranteed to be of the best description of their kind.

The party of the first part agrees that they will at their own cost, construct and prepare the necessary buildings and foundations for said engines and connections, in a proper manner of materials of the very best description of their kind, according to plans therefor to be made by the party of the second part, and to bring the suction and discharge mains, and steam and feed pipes from the boilers, to convenient and accessible points within said pump room, all to be done in time so that the party of the second part shall not be delayed in completing said engines and connections by the time herein mentioned.

In the event, however, of delay in completing the building and foundations by the party of the first part. such delay shall work an equal extension of the stipulated time for setting up and completing said engines.

When said engines and connections are completed and ready for service, and on notice thereof to the party of the first part to that effect, the
(25) same shall be subjected to a fair | trial of their capacity and efficiency, for not exceeding 24 hours, and on the successful testing thereof the liabilities of the party of the second part hereunto shall cease and determine, but it is expressly understood and agreed that the party of the second part shall have a lien on all of said engines and connections, and the said party of the second part may remain in and have, full possession thereof until the whole amount of the purchase price of said engines and connections shall have been fully paid to the party of the second part or its assigns.

The party of the first part is to furnish steam and water for any and all of tests of said engines and connections in due time and in sufficient quantities, failing in which for fifteen days, any part or all of the purchase money then unpaid shall thereupon become due and payable, but without prejudice to making a proper test of said engines and connections at any time within six months thereafter, if required by either party hereto.

And the party of the first part hereby further agrees to pay the party of the second part for the said engines and connections so completed and ready for service as herein set forth, the said sum of fifty thousand dollars as follows:—

$8,333.33 when the first engine is delivered in Mobile.
$8,333.34 when the first engine has been properly run 30 days, and
$8,333.33 in sixty days thereafter.
$8,333.33 when the second engine is delivered in Mobile.
$8,333.34 when the second engine has been properly run 30 days.
$8,333.33 in sixty days thereafter.

In Witness Whereof there parties of the first hath hereto set its hand and seal, and the party of the second part hath caused this agreement to be signed by its Secretary and its corporate seal to be affixed, the day and year first written above.

(Signed) SAMUEL R. BULLOCK & CO. [SEAL.]
(Signed) THE HOLLY MANUFACTURING CO.,
C. G. HILDRETH,
[SEAL.] Endorsed. *Secretary.*

IN THE CIRCUIT COURT OF THE UNITED STATES FOR (26)
THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY, *vs.* THE NEW CHESTER WATER COMPANY; THE SOUTH CHESTER WATER COMPANY; THE BIENVILLE WATER SUPPLY COMPANY; William G. Hopper and Harry S. Hopper, trading, etc.; Richard Wood, George Wood, Walter Wood, and Stuart Wood, trading, etc., and William Bucknell.	Bill in Equity. October Session, 1888. No. 3.

ROWLAND EVANS,
R. L. ASHHURST,
L. F. & G. W. BOWEN,
Solicitors for Complainant.

Filed September 19, 1888.

SAMUEL BELL,
Clerk.

Demurrer of Richard Wood et al. (27)

IN THE CIRCUIT COURT OF THE UNITED STATES FOR
THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY, *vs.* WATER COMPANY, ETC.	In Equity. October Sessions, 1888. No. 3.

The demurrer of Richard Wood, George Wood, Walter Wood, and Stuart Wood, trading under the firm name of R. D. Wood & Co., defen-

dants, to the bill of complaint of the Holly Manufacturing Company, complainant.

These defendants by protestation not confessing or acknowledging all or any of the matters or things in the complainant's bill to be true, in such manner and form as therein set forth and alleged, do demur thereto; and for cause of demurrer show that, by the complainant's own showing in said bill, Samuel R. Bullock and William S. Mercer, trading under the firm name of Samuel R. Bullock & Co., are necessary parties defendant to the said bill, inasmuch as it is therein stated that all the matters of which it complains were transacted with the said Samuel R. Bullock and William S. Mercer, trading under the firm name of Samuel R. Bullock & Co., and by them with the defendants; but yet the complainant has not made them parties to the said bill; wherefore these defendants
(28) demand judgment of this Honorable Court whether | they shall be compelled to make any other or further answer to the said bill or any of the matters or things therein contained, and pray to be hence dismissed with their reasonable costs in this behalf sustained.

RICHARD C. DALE.

For defendants Richard Wood, George Wood, Walter Wood, Stuart Wood.

I hereby certify that in my opinion the above demurrer is well founded in point of law.

RICHARD C. DALE.

Walter Wood being duly affirmed according to law, doth depose and say that he is a defendant in the above-entitled suit, and that the above demurrer is not interposed for the purpose of delay.

WALTER WOOD.

Affirmed and subscribed before me, this 26th day of September, 1888.

ARCHER MCLEAM,

[SEAL] *Notary Public.*

Endorsed: No. 3. October Session, 1888. United States Circuit Court. In Equity. Holly Mfg. Company, *vs.* Water Company, *et al.* Demurrer. Filed September 27, 1888.

R. C. DALE.

SAMUEL BELL,
Clerk.

Demurrer of William G. Hopper & Co. and William Bucknell. (29)

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY,

vs.

THE NEW CHESTER WATER CO., *et al.*

In Equity.

October Sessions, 1888.

No. 3.

Demurrer of William G. Hopper and Harry S. Hopper, trading as W. G. Hopper & Company, and William Bucknell, defendants to the bill in equity of the Holly Manufacturing Company.

The defendants not confessing all or any of the matters in the complainants' bill to be true as therein set forth, do demur thereto and for cause of demurrer show, that by the complainant's own bill it is admitted that Samuel R. Bullock and William S. Mercer, trading as Samuel R. Bullock and Company, are necessary parties defendants to the said bill, as it is therein stated that the matters of which it complains were transacted with said Samuel R. Bullock and William S. Mercer, trading under the firm name of Samuel R. Bullock and Company, and by them with the defendants; yet the complainant has not made said Samuel R. Bullock and William S. Mercer parties to the said bill. Wherefore the defendants demand judgment from this Honorable Court whether they should be compelled to make any other or further answer to the said bill, and pray to be hence dismissed with costs.

William C. Hannis, attorney for William G. Hopper & Co. and William Bucknell.

I hereby certify that my opinion in the above demurrer is well founded (30) in law.

WILLIAM C. HANNIS.

Harry S. Hopper being duly affirmed according to law says that he is a defendant in the above entitled suit, and that the above demurrer is not interposed for the purpose of delay.

HARRY S. HOPPER.

Affirmed and subscribed before me, on the 5th day of October, A. D. 1888.

ISRAEL HECHT,
Notary Public.

[SEAL]

Endorsed: No. 3. Oct. Sess., 1888. Circuit Court of the United States. Equity. Holly Mfg Co., *vs.* New Chester Water Co. De-

dants, to the bill of complaint of the Holly Manufacturing Company, complainant.

These defendants by protestation not confessing or acknowledging all or any of the matters or things in the complainant's bill to be true, in such manner and form as therein set forth and alleged, do demur thereto; and for cause of demurrer show that, by the complainant's own showing in said bill, Samuel R. Bullock and William S. Mercer, trading under the firm name of Samuel R. Bullock & Co., are necessary parties defendant to the said bill, inasmuch as it is therein stated that all the matters of which it complains were transacted with the said Samuel R. Bullock and William S. Mercer, trading under the firm name of Samuel R. Bullock & Co., and by them with the defendants; but yet the complainant has not made them parties to the said bill; wherefore these defendants
(28) demand judgment of this Honorable Court whether | they shall be compelled to make any other or further answer to the said bill or any of the matters or things therein contained, and pray to be hence dismissed with their reasonable costs in this behalf sustained.

RICHARD C. DALE.

For defendants Richard Wood, George Wood, Walter Wood, Stuart Wood.

I hereby certify that in my opinion the above demurrer is well founded in point of law.

RICHARD C. DALE.

Walter Wood being duly affirmed according to law, doth depose and say that he is a defendant in the above-entitled suit, and that the above demurrer is not interposed for the purpose of delay.

WALTER WOOD.

Affirmed and subscribed before me, this 26th day of September, 1888.

ARCHER MCLEAM,

[SEAL] *Notary Public.*

Endorsed: No. 3. October Session, 1888. United States Circuit Court. In Equity. Holly Mfg. Company, *vs.* Water Company, *et al.* Demurrer. Filed September 27, 1888.

R. C. DALE.

SAMUEL BELL,
Clerk.

Demurrer of William G. Hopper & Co. and William Bucknell. (29)

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY,
vs.
THE NEW CHESTER WATER CO., *et al.*

In Equity.
October Sessions, 1888.
No. 3.

Demurrer of William G. Hopper and Harry S. Hopper, trading as W. G. Hopper & Company, and William Bucknell, defendants to the bill in equity of the Holly Manufacturing Company.

The defendants not confessing all or any of the matters in the complainants' bill to be true as therein set forth, do demur thereto and for cause of demurrer show, that by the complainant's own bill it is admitted that Samuel R. Bullock and William S. Mercer, trading as Samuel R. Bullock and Company, are necessary parties defendants to the said bill, as it is therein stated that the matters of which it complains were transacted with said Samuel R. Bullock and William S. Mercer, trading under the firm name of Samuel R. Bullock and Company, and by them with the defendants; yet the complainant has not made said Samuel R. Bullock and William S. Mercer parties to the said bill. Wherefore the defendants demand judgment from this Honorable Court whether they should be compelled to make any other or further answer to the said bill, and pray to be hence dismissed with costs.

William C. Hannis, attorney for William G. Hopper & Co. and William Bucknell.

I hereby certify that my opinion in the above demurrer is well founded (30) in law.

WILLIAM C. HANNIS.

Harry S. Hopper being duly affirmed according to law says that he is a defendant in the above entitled suit, and that the above demurrer is not interposed for the purpose of delay.

HARRY S. HOPPER.

Affirmed and subscribed before me, on the 5th day of October, A. D. 1888.

ISRAEL HECHT,
[SEAL] *Notary Public.*

Endorsed: No. 3. Oct. Sess., 1888. Circuit Court of the United States. Equity. Holly Mfg Co., *vs.* New Chester Water Co. De-

murrer of W. G. Hopper & Co. and William Bucknell Hannis. Filed October 6, 1888.

SAMUEL BELL,
Clerk.

(31) And afterwards, to wit, on the 13th day of November, A. D. 1888, the plaintiff by its counsel come into court here and prays leave to file an amendment to its bill, and counsel for the defendants being present and not objecting, the court makes the following order, viz:

HOLLY MANUFACTURING COMPANY, *vs.* NEW CHESTER WATER CO., *et. al.*	October Session, 1888. No. 3.

And now, November 13, 1888, counsel for plaintiff having moved for leave to file the within amendment to the bill of complaint, and counsel for defendant appearing and showing no cause to the contrary, the Court order that the plaintiff have leave to file said amendment.

Endorsed: No. 3, October Sess., 1888. Circuit Court of United States, Eastern District of Pennsylvania. Holly Mfg. Co. *vs.* New Chester Water Co. *et. al.* Order allowing complainant to file amendment to bill. Filed Nov. 13, 1888.

SAMUEL BELL.
Clerk.

(32) *Amendment to Bill.*

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY *vs.* THE NEW CHESTER WATER COMPANY; THE SOUTH CHESTER WATER COMPANY; THE BIENVILLE WATER SUPPLY COMPANY; William G. Hopper and Harry S. Hopper, trading, etc.; Richard Wood, George Wood, Walter Wood, and Stuart Wood, trading, etc.; and William Bucknell.	In Equity. October Sessions, 1888. No. 3.

To the Honorable the Judges of the Circuit Court of the United States for the Eastern District of Pennsylvania:

And now the plaintiffs, by leave of the court, amend their bill in the above case, as follows:—

First.—By adding the names of Samuel R. Bullock and William S. Mercer, citizens of the State of New York, trading as Samuel R. Bullock & Co., as parties plaintiff in the title and in the first paragraph.

Second.—By inserting after the words "your orator," in the several (33) places where it occurs in said bill, the words "the said Holly Manufacturing Company."

Third.—By adding in the stating part of said bill a twenty-second paragraph, as follows: 22. "The said Samuel R. Bullock and William S. Mercer, trading as Samuel R. Bullock & Co., join herein as parties plaintiff, not as seeking any special or distinct relief in the premises in this proceeding, but in affirmance of the rights of their co-plaintiffs, the Holly Manufacturing Company, and in order to invest the court with full jurisdiction of the premises, so that a complete decree protecting the rights of all parties can be made."

ROWLAND EVANS.
R. L. ASHHURST.
L. F. & G. W. BOWEN.
Solicitors for Plaintiffs.

Endorsed.

IN THE CIRCUIT COURT OF THE UNITED STATES, (34)
EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY	In Equity.
vs.	October Sessions, 1888.
THE NEW CHESTER WATER CO., *et al.*	No. 3.

Amendment to plaintiff's Bill.

Filed November 13, 1888.

SAMUEL BELL.
Clerk.

(35) *Order Allowing the Filing of a Supplemental Bill.*

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

In Equity

Of October Sessions 1888, No. 3.

Between:

THE HOLLY MANUFACTURING COMPANY, *et al. Plaintiff*,

AND

THE NEW CHESTER WATER COMPANY *et al. Defendant.*

And now, December 4, 1888, on motion of Rowland Evans, of counsel for plaintiffs, and on his statement of notice to counsel for defendant such counsel not appearing, leave is granted the plaintiff, The Holly Manufacturing Company, to file the supplemental bill hereto annexed, without prejudice, and it is ordered that all the defendants except Thomas Perrot be required to plead, answer, or demur to said supplemental bill on or before the rule day of January next.

Endorsed: No. 3. October Session 1888. The Holly Manufacturing Company, *et al. vs.* The New Chester Water Company, *et al.* Order allowing the filing of a supplemental bill and requiring defendants to plead, answer, or demur to said bill on or befor the January rule day. Filed December 4, 1888, SAMUEL BELL,
Clerk, etc.

(36) *Supplemental Bill.*

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING CO.;

vs.

THE NEW CHESTER WATER COMPANY; THE SOUTH CHESTER WATER COMPANY; THE BIENVILLE WATER SUPPLY COMPANY; WILLIAM G. HOPPER and HARRY S. HOPPER, trading, etc.; RICHARD WOOD, GEORGE WOOD, WALTER WOOD, and STUART WOOD, trading, etc.; and WILLIAM BUCKNELL.

In Equity.

October Sessions, 1888.

No. 3.

To the Honorable the Judges of the Circuit Court of the United States for the Eastern District of Pennsylvania:

The Holly Manufacturing Company, a corporation organized, existing, and transacting its business under the laws of the State of New York, having its place of business in the city of Lockport, in the county of Niagara, and State of New York, and a citizen of the State of New York, by leave of the Court first had and obtained, files this its supplemental bill of complaint against the New Chester Water Company and The South Chester Water Company, corporations organized and existing under the laws of the State of Pennsylvania | located at and transacting (37) their business and having their office in the city of Chester, in the county of Delaware, in said district of Pennsylvania, and citizens of the State of Pennsylvania; William G. Hopper and Harry S. Hopper, citizens of the State of Pennsylvania, and trading under the firm name of William G. Hopper & Co.; William Bucknell, a citizen of the State of Pennsylvania; and Richard Wood, George Wood, Walter Wood, and Stuart Wood, trading under the firm name of R. D. Wood & Co., and citizens of the State of Pennsylvania; and Thomas A. Perrot, also a citizen of Pennsylvania; and the Bienville Water Supply Company, a corporation organized, existing, and transacting its business under the laws of the State of Alabama, and a citizen of the State of Alabama.

And thereupon your orator complains and says:

1. That heretofore to October Sessions, 1888, your orator brought its bill against the said defendants except the said Thomas A. Perrot, who was not joined therein, which said original bill complaint was numbered No. 3 of said October Sessions on the records of your Honorable Court.

2. That in said original bill, as will by reference to same as the same remains of record in this court more fully and at large appear, your orator set forth certain contracts between the New Chester Water Company and the South Chester Water Company, of the one part, and Samuel R. Bullock and William S. Mercer, trading as Samuel R. Bullock & Co., of the other part, the execution of mortgages by the said Water Companies to the Farmer's Loan and Trust Company, as trustees, for bonds aggregating $800,000, and the delivery of the capital stock of the said companies, amounting to $1,600,000 in par value, respectively to said Samuel R. Bullock & Co.

3. Your orator in said bill further set forth a contract between the Bienville Water supply Company and said Samuel R. Bullock & Co., for the construction of their water-works | near the city of Mobile, and the (38) execution by the said Bienville Water Supply Company of a mortgage of $750,000 to secure bonds to that amount, and the issue and delivery of said bonds together with certificates for the full of its capital stock, being at the par value thereof $500,000, to Samuel R. Bullock & Co.

4. Your orator further set forth that the said Samuel R. Bullock & Co. entered into agreements in writing with your orator for the erection of pumping engines and the connections thereof for the said several water companies, as particularly specified in the said original bill, and that your orator had performed his contract with the said Samuel R. Bullock & Co., and had erected the said engines and connections, which had been completed and set up, and accepted, but that neither the said Samuel R. Bullock & Co. nor any other persons had paid your orator the balances due it on the said contract, which amounted, according to a statement of account between it and the said Samuel R. Bullock & Co. made as of 11th August, 1888, to $66,667. Your orator also stated in said bill its retention in accordance with the terms of its contract, of the actual possession, ownership, and control of the said pumping-engines and their connections.

5. Your orator further, in said bill, viz., in the twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, and nineteenth paragraphs thereof, set forth certain transactions and dealings between the said Samuel R. Bullock & Co., William G. Hopper & Co., William Bucknell, and the said Richard Wood, George Wood, Walter Wood, and Stuart Wood, composing the firm of R. D. Wood & Company, by which certain large amounts of money were advanced to said Samuel R. Bullock & Co., and the said bonds and stock were transferred to said William G. Hopper & Co. and afterwards agreed to be held for the benefit of said William G. Hopper & Co., William Bucknell, and R. D. Wood & Co., agreed to complete the said water-works and to discharge and relieve the liens, charges, and incumbrances thereon antecedent to the said mortgages.

(39) 6. Your orator further showed by its said original bill that the said advances or loans were made by said William G. Hopper & Co. and R. D. Wood & Co. to said Samuel R. Bullock & Co. with the knowledge of your orator's rights and equities, and that your orator had completed the shipment and the setting up of the pumping engines and the completion of its contract on the faith and credit of said R. D. Wood & Co.'s undertaking.

7. Your orator further showed that it had demanded from said Samuel R. Bullock & Co. and the said Wm. G. Hopper & Co. and R. D. Wood & Co. the payment of the balance remaining due to your orator, but that they had neglected to comply with such demand and that said balance still remained unpaid as aforesaid, and therefore your orator prayed in the said original bill for a declaration and establishment of your orator's right of possession in the said pumping engines and connections thereof free and superior to any liens and claims of any other parties and negativing any claim that defendants, or any of them, had acquired any right or title in the said engines, discovery of all contracts between the defendants R. D. Wood & Co. and W. G. Hopper & Co. and said Samuel R. Bullock & Co., subrogation to the benefit of the said contracts between the said Samuel R. Bullock & Co., R. D. Wood & Co. and W. G.

Hopper & Co., and a decree against said R. D. Wood & Co., that they should account to and pay your orator the amounts due to it as aforesaid; an injunction against the sale or disposition of any of the bonds or stock of any of the said water companies, and a foreclosure of the rights or equities of redemption, if any, of the said parties in the said pumping engines, machinery and connections; and other and further relief, as will particularly appear by reference to the said original bill so remaining of record in this court.

8. That there has come within your orator's knowledge a paper which it believes to be a true and correct copy of the said agreement between the said Samuel R. Bullock & Co., | R. D. Wood & Co., William G. (40) Hopper & Co., which bears date the twenty-sixth day of October, 1887. A copy of said agreement, being the agreement referred to in general terms in the sixteenth paragraph of said original bill, your orator annexes hereto as Exhibit No. 1, and prays that the same will be considered as a part of this bill as if particularly herein set forth.

9. Since the filing of said original bill your orator's claim against said Bullock & Co. has been duly reduced to judgment duly entered in Court of Common Pleas, No. 4, for the county of Philadelphia, on the twenty-sixth day of November, A. D., 1888, for the sum of $67,811.44, as by reference to the records of said court of September Term, 1888, No. 832, will fully appear.

10. Since the filing of the said original bill your orator is informed and believes, and on such information and belief avers, that the said Samuel R. Bullock, on the ninth day of November, 1888, executed a certain other agreement or instrument in writing in the words and figures as follows:—

In consideration of the sum of one dollar, lawful money, to me in hand paid, the receipt whereof is hereby acknowledged, the undersigned, for himself, individually, and representing the firm of Samuel R. Bullock & Co., hereby assigns, transfers and sets over unto Thomas A. Perrot, of Philadelphia, Pa., the agreement of contract, dated March 21, 1887, between Samuel R. Bullock and William S. Mercer, composing the firm of Samuel R. Bullock & Co., and The New Chester Water Company, and all the rights and interests thereunder of said firm and myself.

Witness our hands and seals this November 9, 1888.

SAMUEL R. BULLOCK & CO. [L. S.]
in liquidation.
By SAMUEL R. BULLOCK.

Witness:
CHAS. M. BERRIAN.

SAMUEL R. BULLOCK. [L. S.]

(41) STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.

On this Ninth day of November, A. D., 1888, before me, personally came Samuel R. Bullock, to me known and known to me to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same for the uses and purposes therein mentioned.

CHARLES M. BERRIAN,
Notary Public.

On this same day, viz.: the said Ninth of November, the said Samuel R. Bullock made a certain other deed of assignment in like manner and form to the said Thomas A. Perrot of the contract of the said Samuel R. Bullock & Co., with The Bienville Water Supply Company.

Your orator is informed and believes, and on such information and belief avers, that the said Thomas A. Perrot is a clerk or book-keeper in the office of said defendants, R. D. Wood & Co., and that the assignment to him was made in trust for the said R. D. Wood & Co., and not for his individual benefit or for individual consideration paid by him; nevertheless, as the said contracts and all rights of said Samuel R. Bullock & Co. thereunder have been undertaken to be assigned to said Thomas A. Perrot, your orator joins him as a defendant by this supplemental bill as aforesaid.

11. Your orator is further informed and believes, and on such information and belief avers, that at a later hour on the same ninth day of November the said Samuel R. Bullock executed three other agreements or deeds of assignment directly to said R. D. Wood & Co. By the first of these assignments it was declared that the said Samuel R. Bullock & Co. assigned and transferred to the said R. D. Wood & Co. (*inter alia*) all their right, title and interest in and to the stock of The New Chester Water Company and The South Chester Water Company, now hypothecated to and held by William G. Hopper & Co., and the bonds (face value $40,000) of The New Chester Water Company hypothecated to and held by the Chester National Bank of Chester, Pa.

(42) 12. By the second of these assignments it was declared that the said Samuel R. Bullock & Co. assigned and transferred to R. D. Wood & Co. (*inter alia*) all their claims, demands and actions, or causes of actions which had arisen or might hereafter arise under the existing contracts against The New Chester Water Company, The South Chester Water Company, and The Bienville Water Supply Company.

By the third or remaining of said deeds or instruments of assignment it was declared that the said Samuel R. Bullock and Samuel R. Bullock & Co. assigned and transferred to the said R. D. Wood & Co. all the right, title and interest of said Samuel R. Bullock and said Samuel R. Bullock & Co. in and to the stocks and bonds of a number of corporations,

among whom were The New Chester Company, The South Chester Company, and the Bienville Water Supply Company, in whose hands any or all of such stock or bonds might be, or any portion of them, and to hold and pay over to the said R. D. Wood & Co. any surplus in case of a sale of the same. And your orator annexes copies of the said three instruments of assignment to R. D. Wood & Co. as Exhibits Nos. 2, 3 and 4 to this bill, which it prays may be treated as if here set forth at length.

13. Your orator is informed and believes, and on such information and belief avers, that the said Thomas A. Perrot and R. D. Wood & Co. have accepted the said assignments to them, respectively, and so far as the nature of the case permits taken possession of the property and interests thus assigned, and propose to act upon and under the same, and realize for themselves and for their benefit the beneficial interests conveyed in and by the said instruments of assignment, and it believes they will endeavor, in fact, to proceed to reduce the property therein assigned to possession, and to realize thereon as speedily as the nature of the case will permit.

14. Your orator charges that the legal effect of the said agreement above recited, if valid and operative, is to vest all | interest of whatever (43) kind of the said Samuel R. Bullock and Samuel R. Bullock & Co. under the said contracts with the said water companies in the said Thomas A. Perrot and R. D. Wood & Co., who are in equity bound both by the terms of the said contract of October 27, 1887, and on general principles of equity to assume and perform the duties and liabilities of the said Samuel R. Bullock & Co. under the said contracts of the said water companies and particularly to and with your orator. If alternately the said agreements should or could be contended or construed to have another or different effect your orator charges that they would be void, as calculated to defraud and delay creditors.

Wherefore, and inasmuch as the matters hereinabove recited having taken place in the main since the filing of the original bill cannot be made to appear thereunder, your orator has filed this its supplemental bill, bringing in the said Thomas A. Perrot as an additional defendant, and setting forth the new and additional grounds and causes of proceeding and for relief as well against the said R. D. Wood & Co. as against the said Thomas A Perrot, based upon these proceedings and transactions between said R. D. Wood & Co. and said Thomas A. Perrot and Samuel R. Bullock since the filing of the said original billl.

And your orator therefore standing in need of equitable relief prays:—

First.—For the same relief particularly set forth in the said original bill, to which reference is again made as aforesaid, as if the same was herein set forth.

Second.—That the said Thomas A. Perrot and the said R. D. Wood & Co. be decreed to make a true answer and discovery as to whether he

holds the said contracts so assigned to him as above recited for himself or in trust for said R. D. Wood & Co., and if so, upon what trusts.

Third.—That the said Thomas A. Perrot and said R. D. Wood & Co.
(44) be decreed as assignees of the said contracts | with the several water companies to be bound to perform the same and the other contracts made by said Samuel R. Bullock & Co., as growing out and resulting therefrom, in like manner as the said Samuel R. Bullock or Samuel R. Bullock & Co. were in equity bound to perform the same and particularly bound to discharge the duties and obligations which the said Samuel R. Bullock and the said Samuel R. Bullock & Co. had undertaken to and with your orator as particularly set forth in the original bill and pay your orator the said amount so due to it as aforesaid; or,

Fourth.—Alternatively, that the said several agreements and assignments of November 9th, 1888, to Thomas A. Perrot and R. D. Wood & Co. be declared and decreed to be null and void, as tending to defraud and hinder creditors.

Fifth.—Such further and other relief as your orator may be entitled to receive in the premises.

Sixth.—That the said defendants, The New Chester Water Company, The South Chester Water Company, The Bienville Water Supply Company, William G. Hopper, Harry S. Hopper, William Bucknell, Richard Wood, George Wood, Walter Wood, and Stuart Wood, be required to demur, plead, or answer this supplemental bill on the next succeeding rule day, or on some other day to be fixed by your Honors. And may it please your Honors to grant unto your orator a writ of Subpœna directed to said defendant, Thomas A. Perrot, commanding him to be and appear before this Honorable Court on a day certain to be therein named, then and there to answer the premises and to stand to, perform and abide such further orders, direction, and decree as may be made against him.

And your orator will ever pray, &c.

ROWLAND EVANS,
R. L. ASHHURST,
L. F. & G. W. BOWEN,
Solicitors for Complainant.

(45) EXHIBIT No. 1.

WHEREAS certain agreements have been made between Samuel R. Bullock and Company and William G. Hopper and Company, in which the latter agreed to procure for the former certain advances to enable them to construct certain Water Works now in course of construction, the final advances whereof were to be paid when the said Works were respectively completed according to their specifications;

AND WHEREAS certain of the bonds and stocks of said Water Companies were pledged by the said Samuel R. Bullock and Company as collateral for said advances;

AND WHEREAS all of said advances have been made except such as are due upon the completion of said water works respectively;

AND WHEREAS it has been found that the balance of advances still due will not be sufficient to complete the said water works as agreed;

AND WHEREAS the said Samuel R. Bullock & Co., have assigned to R. D. Wood & Co. the stocks and bonds pledged to William G. Hopper & Co. and William Bucknell as collateral security for materials furnished to them by the said R. D. Wood & Co.;

AND WHEREAS the said Samuel R. Bullock & Co. and the said R. D. Wood & Co. have entered into certain contracts by which the said R. D. Wood & Co. have agreed to complete the water works at Chester, Greencastle and Mobile according to the specifications respectively and the said Samuel R. Bullock & Co. have represented that the sum of two hundred thousand dollars will enable them to complete the said water works and put the same in operation.

AND WHEREAS the said William G. Hopper & Co. are willing to procure the said advance of Two hundred thousand dollars to be made to the said Samuel R. Bullock and Co. upon the terms and conditions hereinafter stated:

NOW THIS ARRANGEMENT made between the said Samuel R. Bullock and Company, R. D. Wood and Company and William G. Hopper and Company, Witnesseth: That the said | parties in consideration of the (46) premises agree to and with each other as follows:—

First.—That the said Samuel R. Bullock and Company and R. D. Wood and Company hereby release the said William G. Hopper and Co. from all obligations to furnish further advances under the agreements above recited.

Second.—The said William G. Hopper and Company agree to advance to Samuel R. Bullock and Company the sum of Two hundred thousand dollars as the same may be needed, the said sum to be applied by R. D. Wood and Company from time to time exclusively in the completion of the water works at Chester, Mobile and Greencastle on account of work and materials yet to be furnished at said water works, and to be apportioned about as follows:—

Chester water works	$129,800
Greencastle water works	10,000
Mobile water works	60,200
	$200,000

but any surplus on any one of said works may be applied to a deficiency on the others.

Of the money so to be applied to work and materials yet to be furnished at Chester, the said R. D. Wood and Co. are not to apply more than Twenty-five thousand dollars toward the payment of their claim for materials yet to be delivered unless the other claims for labor and material shall be paid in full.

The said R. D. Wood and Co. shall from time to time present to William G. Hopper and Co. the detailed applications for money needed for the purposes aforesaid by the said Samuel R. Bullock and Co. to pay for labor and materials to an aggregate amount not exceeding Two hundred thousand dollars, in the proportions hereinbefore named at Chester,
(47) Greencastle and Mobile, to which application shall be attached | the four months note of Samuel R. Bullock and Co. for the amount therein specified with discount added, whereupon the said William G. Hopper and Co. shall pay the said R. D. Wood and Company the said amounts so called for, in all not exceeding Two hundred thousand dollars, and the said R. D. Wood and Co. will then immediately give their checks for the same to the said Samuel R. Bullock and Co. who shall disburse the same for the purposes aforesaid and give to R. D. Wood and Co. the proper certification and vouchers therefor.

Third.—In consideration of the said advance of two hundred thousand dollars to Samuel R. Bullock & Co. and of one dollar to them paid, the said R. D. Wood & Co. agree to procure the completion of the said water-works at Chester, Mobile and Greencastle according to the specifications and clear of all liens ahead of the securities held by William G. Hopper & Co. with the utmost diligence and without delay; and further agree that the said sum of ten thousand dollars applicable to Greencastle water-works shall be applied at once to that purpose and that the water shall be turned on and said water-works at Greencastle put in operation within twenty days from the date hereof.

Fourth.—The said William G. Hopper & Co. agree to carry the amounts now due to them by the said Samuel R. Bullock & Co. represented by the notes now in their possession and also the advance of two hundred thousand dollars agreed to be made under this contract at the rate of six per cent. per annum and as the notes given therefor mature the discount thereon is to be added from time to time until the completion of the said water-works and after the completion of the said water-works the said William G. Hopper & Co. agree to carry the amount then due them represented by the notes then in their possession for a further period of eighteen months, if desired, to be computed from the first day of February, 1888, the renewals of said notes after completion of said works to be every four months as at present, the discount however to be |
48) then paid in cash instead of added to the notes. Provided that if the discount on said notes be not paid as it becomes due after completion, the said William G. Hopper & Co. shall be relieved from their obligation to carry said loans for the said period of eighteen months or any part thereof. And if default be made in the payment of the discount, when the same ought to be paid on any of the notes now held or on the renewals of the same from time to time or any of the notes hereafter to be given for said sum of two thousand dollars or on the renewals thereof from time to time, the said William G. Hopper & Co. are hereby authorized, after giving ten days written notice to R. D. Wood & Co. and Samuel R. Bullock & Co. to sell either at public or at private sale sufficient of said bonds and stock to pay the said notes, discount, and costs of sale in full

and are hereby authorized to buy such bonds and stock at such sale, it being hereby agreed that the whole amount of bonds and stock held by the said William G. Hopper & Co. shall be treated as collateral for the whole amount of the indebtedness of the said Samuel R. Bullock & Co. to them including the said sum of two hundred thousand dollars yet to be advanced.

Fifth.—The said William G. Hopper & Co. are to receive a commission of one and one-half per cent. on the sale of the said securities in their hands in lieu of all other compensation under the agreements heretobefore made between them and the said Samuel R. Bullock & Co. and the said William G. Hopper & Co. are to have said compensation whether the said bonds are sold by them or by any other party, and they are to sell the said bonds and stock at price as the said R. D. Wood & Co. and the said William G. Hopper & Co. may agree so long as the interest due to said William G. Hopper & Co. is promptly paid when due. *Provided* that when the claims of the said William G. Hopper & Co. are paid in full, R. D. Wood & Co. shall have the power to direct the sale of the bonds.

Sixth.—It is hereby agreed that the proceeds of the bonds and other securities held by the said William G. Hopper & | Co. as collateral afore- (49)
said when sold by them, shall be applied in following order of priority:

1. To secure the payment of all notes or the renewals of the same and interest thereon at six per cent. due by the said Samuel R. Bullock & Co. to the said William G. Hopper & Co. under the above recited contracts and also the said sum of two hundred thousand dollars herein agreed to be advanced and interest thereon at six per cent. and also the one and one-half per cent. commission due to said William G. Hopper & Co. for the sale of said securities.

2. The balance of said proceeds remaining to be paid to the said R. D. Wood & Co.

In Witness Whereof the parties hereto have put their signatures this twenty-sixth day of October, 1887.

Signed in presence of
RICHAED C. DALE
WM. C. HANNIS

SAMUEL R. BULLOCK & CO.
R. D. WOOD & CO.
WM. G. HOPPER & CO.

EXHIBIT No 2.

KNOW ALL MEN BY THESE PRESENTS, That for valuable and good considerations and the sum of one dollar, to me in hand paid, for receipt of which is hereby acknowledged, I have assigned, transferred and set

over to R. D. Wood & Co., of Philadelphia, all my right, title and interest in and to the stock of the Corry Water Works Company, now hypothecated to, and held by Post, Martin & Co., and the First National Bank of Corry, Pa., the stock of the Sharon Water Works Co., now hypothecated to, and held by Alexander McDowell, of Sharon, Pa.; the stock of the Vincennes Water Supply Co, now hypothecated to, and held by Wm. G. Hopper & Co. and Edward Watson, of Vincennes, Indiana,
(50) the stock of the | Massillon Water Co., now hypothecated to, and held by Wm. G. Hopper & Co., the Deane Steam Pump Co., and the Geo. F. Blake Manufacturing Co.; the stock of the New Chester Water Co. and South Chester Water Co., now hypothecated to, and held by Wm. G. Hopper & Co.; the bonds (face value $40,000) of the New Chester Water Co., now hypothecated to, and held by the Chester National Bank, of Chester, Pa.; stock of the Greencastle Water Works Co. now hypothecated to, and held by Wm. G. Hopper & Co. and Fletcher & Co., of Indianapolis, Ind.; the stock of the Warren Water Co., now hypothecated to, and held by the National Water Works Investment Co, the Western Reserve Bank, of Warren Ohio, and the German-American Bank, of Paducah, Ky.; the stock of the Circleville Water Supply Co., now hypothecated to, and held by the National Water Works Investment Co., and Niles and Montelius, of Circleville, Ohio; the stock of the Wabash Water Company, now hypothecated to, and held by the National Water Works Investment Co., and the Citizens' Bank, of Wabash, Indiana; the stock of the Shreveport Water Works Co., now held by, and hypothecated to, the First National Bank of New York, and S. N. Kerley, of Shreveport, La., the stock of the Vicksburg Water Supply Company, now hypothecated to, and held by, the First National Bank of New York, the stock of the Jeffersonville Water Supply Company, hypothecated to, and held by, E. F. Fuller, of New York City; the stock of the Defiance Water Company, now hypothecated to, and held by, C. Delafield; the bond (face value $150,000) of the Stevens Point Water Company, now hypothecated to, and held by, the First National Bank of New York; and the bond (face value $25,000), of the same Company, now hypothecated to, and held by Wm. G. Hopper & Co.; the bond of the Marion Water Company (face value $15,000), now hypothecated to, and held by Wm. G. Hopper & Co.; bond of the same company (face value $75,000), now hypothecated to, and held by, the First National Bank of New York; and bond of the same Company (face value $16,000), now hypothecated to, and held by the National Water Works Investment Co.; and bond of the same Company face value |
(51) $29,000), now held by, and hypothecated to, the Phoenix National Bank, and bond of the same Company (face value $10,000), now hypothecated to, and held by the Ludlow Valve Manufacturing Co.; and bond of same Company (face value (15,000), now held by, and hypothecated to Wm. V. Reynolds, of New York; the stock of the Stevens Point Water Point Co., the Marion Water Company, and the Natchez Water Company, now hypothecated to, and held by the First National Bank of New York; the bond of the Natchez Water Company, hypothecated to, and held by the following persons and corporations, to the amount (face value) affixed to their names, viz: Post, Martin & Co. $50,000; Third

National Bank, 35,000; Wm. G. Hopper & Co., $20,000; Ludlow Vale Manufacturing Co., $22,000; Tippet & Wood, $4,000. And I hereby direct the before named holders and pledgees of said stock and bond to hold and pay over to R. D. Wood & Co. any surplus in case of sale therefore, and to notify any sub-pledgee or subsequent holder or pledgee, of this assignment to R. D. Wood & Co. . . . I also assign, and set over to said R. D. Wood & Co., any and all claims, demands and actions or causes of action I have against the Vincennes and New Albany R. R. Co., under the contracts existing between said Co., and myself, or the firm of Samuel R. Bullock & Co.; and also accounts, bills and debts due me or said firm.

I also assign, transfer, and set over to said R. D. Wood & Co.. all my right, title, and interest in and to the bonds of the Rochester Water Co., now hypothecated to and held by the Western National Bank and Phœnix National Bank; and the bond of the Greensburg Water Co., now hypothecated to, and held by, the Park National Bank, and direct the said banks to hold and pay over to R. D. Wood & Co., any surplus in case of the sale thereof, and to notify any sub-pledgee or subsequent holder or pledgee, of this assignment to R. D. Wood & Co.

And I assign and transfer for like considerations, also, to said R. D. Wood & Co., all my rights and interest under my contracts with the said Rochester Water Co., and Greensburg Water Co.

I also assign, transfer, and set over, for like considerations, to said R. (52)
D. Wood & Co. all the right, title and interest of myself, or of my former firm of S. R. Bullock & Co., in and to a certain contract between, said firm and the Paducah and Illinois Bridge Co.

The above assignment of interest in the bonds of the New Chester Water Co., and the Greencastle Water Works Co., not now in possession of Wm. G. Hopper & Co., is subject to an agreement between Samuel R. Bullock & Co. and Wm. G. Hopper & Co., bearing date Oct. 26, 1887, and approved by R. D. Wood & Co.

In Witness Whereof, I have hereunto set my hand and seal, individually and as liquidating partner of the firm of Samuel R. Bullock & Co., this 9th day of November, 1888.

(Signed) SAML. R. BULLOCK & CO.,
in liquidation,
By SAMUEL R. BULLOCK.

(Signed) SAML. R. BULLOCK.

Witness:

(Signed) C. M. HOUGH.

EXHIBIT No. 3.

In consideration of the sum of One Dollar, to me in hand paid, and divers good and valuable considerations, I, for myself and as liquidating partner of the firm of Samuel R. Bullock & Co., do hereby assign, transfer and set over to R. D. Wood & Co., all claims, demands, actions and causes of action, which I personally or my said firm have against the Corry Water Works Co., Sharon Water Works Co., Dennison City Water Co., Vincennes Water Supply Co., Massillon Water Co., New Chester Water Co., South Chester Water Co., Bienville Water Supply Co., Greencastle Water Works Co., Warren Water Co., Circleville Water Supply Co., Wabash Water Co., Shreveport Water Works Co., Vicks
(53) burg Water Supply Co., | Jeffersonville Water Supply Co., Defiance Water Co., Stevens Point Water Co., Marion Water Co., Natchez Water Co., or which may hereafter arise under existing contracts.

Witness our hands and seals this ninth day of November, A. D. 1888.

(Signed) SAML. R. BULLOCK & CO.,
in liquidation,
By SAMUEL R. BULLOCK. [SEAL]

(Signed) SAML. R. BULLOCK. [SEAL]

Witness:

(Signed) C. M. HOUGH.

EXHIBIT No. 4.

KNOW ALL MEN that for valuable and good considerations and the sum of One Dollar, to me in hand paid, the receipt whereof is hereby acknowledged, I have assigned, transferred, and set over, and by these presents do assign, transfer and set over to R. D. Wood & Co., of Philadelphia, Pa., all my right, title and interest in and to the stock and bonds of the Dennison City Water Co., in whose hands soever any or all of such stock or bonds may be; and I hereby direct the present holders or pledgees of the same to hold and pay over to R. D. Wood & Co., any surplus in case of the sale of the same or any portion thereof, and to notify the purchaser or any subsequent holder or pledgee of this assignment to R. D. Wood & Co., by myself.

AND FOR LIKE CONSIDERATION, I do also hereby assign, transfer and set over to the said R. D. Wood & Co., all my right, title, equity and interest whatever the same may be, and belonging to me, either individually or as liquidating partner of the co-partnership firm of Saml. R. Bullock & Co., in and to the stock and bonds of the following corporations, in whosever hands the same may now be or may hereafter in any way come.

Corry Water Works Co.; Sharon Water Works Co.; Dennison City Water Co.; Vincennes Water Supply Co.; Massillon | Water Co.; New (54)
Chester Water Co.; South Chester Water Co.; Bienville Water Supply Co.; Wabash Water Co.; Shreveport Water Works Co.; Vicksburg Water Supply Co.; Defiance Water Co.; Stevens Point Water Co.; Marion Water Co.; Natchez Water Co.; Paducah Hotel Co.; Vincennes and New Albany R. R. Co.; Paducah & Illinois Bridge Co.; Rochester Water Co.; Greensburg Water Co.

And I direct the holders of the said stock and bonds or of any portion of them to hold and pay over to the said R. D. Wood & Co., any surplus in case of the sale of the same or any portion thereof, and to notify the purchaser or any subpledgee or subsequent holder or pledgee of this assignment to R. D. Wood & Co., by myself.

In Witness Whereof, I have hereunto set my hand and seal, individually and as liquidating partner of the firm of Saml. R. Bullock & Co., this 10 day of November, A. D., 1888.

(Signed) SAML. R. BULLOCK & CO.,
in liquidation,
BY SAMUEL R. BULLOCK & CO. [SEAL]

Witness:
(Signed) WOLTMANN.
(Signed) SAML. R. BULLOCK. [SEAL]

Endorsed. (55)

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY,

vs.

THE NEW CHESTER WATER COMPANY; THE SOUTH CHESTER WATER COMPANY; THE BIENVILLE WATER SUPPLY COMPANY; WILLIAM G. HOPPER and HARRY S. HOPPER, trading, etc.; RICHARD WOOD, GEORGE WOOD, WALTER WOOD, and STUART WOOD, trading, etc.; and WILLIAM BUCKNELL.

In Equity.

October Session, 1888.

No. 3.

Supplemental Bill.

ROWLAND EVANS,
R. L. ASHHURST,
L. F. & G. W. BOWEN,
Solicitors for Complainants.

Filed December 4, 1888.

SAMUEL BELL,
Clerk.

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(56) *Demurrer to Original and Supplemental Bill, by William G. Hopper & Co., and William Bucknell.*

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY,

vs.

THE NEW CHESTER WATER COMPANY; THE SOUTH CHESTER WATER COMPANY; THE BIENVILLE WATER SUPPLY COMPANY; WILLIAM G. HOPPER and HARRY S. HOPPER, trading, etc.; RICHARD WOOD, GEORGE WOOD, WALTER WOOD and STUART WOOD, trading, etc., and WILLIAM BUCKNELL.

Sitting in Equity.

October Sessions, 1888.

No. 3.

The defendants William G. Hopper and Harry S. Hopper, trading as William G. Hopper and Company, and William Bucknell demur to the original and supplemental bill filed in this case and assign the following reasons therefor:

1. That upon averments of said original and supplemental bill of complaint no cause of action is shown against these defendants.

2. That the joinder of Samuel R. Bullock and William S. Mercer as
(57) parties complainant in this case was | not in accordance with the rules of equity pleading, the interests of said Samuel R. Bullock and William S. Mercer being adverse to those of the complainant, wherefore, these de-

fendants show that said Samuel R. Bullock and William S. Mercer under the rules of equity pleading should have been joined in this case as parties defendants and not as parties complainant.

2. That this Court has no jurisdiction over this controversy nor any part of it because on arranging parties according to the rule under their interests, the interest of Samuel R. Bullock and William S. Mercer would be found to be adverse to that of the complainants, the Holly Manufacturing Company, and the said complainant and Samuel R. Bullock and William S. Mercer are all citizens of the same State, to wit: the State of New York.

WILLIAM C. HANNIS.
Attorney for Wm. G. Hopper & Co., and Wm. Bucknell.

I hereby certify that in my opinion the foregoing demurrer is well founded in law.

WILLIAM C. HANNIS.

Endorsed: No. 3. October Session, 1888. Equity. The Holly Mfg. Co., *vs.* The New Chester Water Co. *et al.* Demurrer to bill and supplemental bill. Filed December 31, 1888.

SAMUEL BELL,
Clerk.

Demurrer of Richard Wood et al. to Original Bill of Complaint and Supplemental Bill of Complaint. (58)

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY

vs.

THE NEW CHESTER WATER COMPANY; THE SOUTH CHESTER WATER COMPANY; THE BIENVILLE WATER SUPPLY COMPANY; WILLIAM G. HOPPER and HARRY S. HOPPER, trading, etc.; RICHARD WOOD, GEORGE WOOD, WALTER WOOD, and STUART WOOD, trading, etc.; and WILLIAM BUCKNELL.

In Equity

October Sessions, 1888.

No. 3.

The defendants Richard Wood, George Wood, Walter Wood, and Stuart Wood, co-partners, trading as R. D. Wood & Co., demur to the original bill of complaint and the supplemental bill of complaint, and assign the following reasons therefor :—

First.—That upon the averments of said original and supplemental bill of complaint no cause of action is shown.

Second.—That if upon the averments of said original and supplemental bill, upon which the complainants, the Holly Manufacturing Com-
(59) pany, base their prayer for relief, that | these defendants should pay to the Holly Manufacturing Company the amount of its claim against Samuel R. Bullock & Co., the complainant has shown any right to recover any sum of money of these defendants, then complainant's remedy is by an action at law for the recovery of the same, said remedy at law being full, adequate, and complete.

Third.—That if upon the averments of said original and supplemental bill of complainant the complaints, the Holly Manufacturing Company, have shown any present right of ownership to the pumps mentioned in the bill of complaint, their remedy at law, either by voluntary removal of the same or by action of *replevin*, is full, adequate, and complete.

Fourth.—The bill is multifarious, in the joinder of separate and independent causes of action. there being no proper reason for the joinder of complainant's claim for the pumps furnished at Chester with those furnished at Mobile.

Fifth.—That even if the complainant, the Holly Manufacturing Company, has shown any ground for equitable relief in the premises, the Bienville Water Supply Company is a necessary party defendant to any proceedings involving the question of title to the pumps placed in the works of said Bienville Water Supply Company, and said Bienville Water Supply Company has not been served with process in the present case; and even if process had been duly served this court has no jurisdiction in the premises, because by virtue of the act of Congress in such case made and provided, the Circuit Court of the United States for the Eastern District of Pennsylvania has no jurisdiction over a suit between citizens of the State of New York and the Bienville Water Supply Company, the said Bienville Water Supply Company being a corporation organized under the laws of the State of Alabama, and an inhabitant of the Southern District of Alabama.

Sixth.—That the joinder of Samuel R. Bullock and William S.
(60) Mercer, as parties complainant, was not in accordance with | the rules of equity pleading, the interests of Samuel R. Bullock and William S. Mercer beiug adverse to those of the complainant, the Holly Manufacturing Company; wherefore these defendants show that said Samuel R. Bullock and William S. Mercer, under the rules of equity pleading, should have been joined in this cause as parties defendant and not as parties complainant, and the said joinder of Samuel R. Bullock and William S. Mercer as parties complainant was also irregular, because it

appears from said bill of complaint that said Samuel R. Bullock and William S. Mercer do not seek any relief in this cause as against the defendants or any of them, but only appear in order that their rights in the premises may be affected by any decree entered in this cause.

Seventh.—That this court has no jurisdiction over the controversy or any part of it, because upon the arranging the parties to this controversy according to the real nature of their interests, the interest of Samuel R. Bullock and William S. Mercer will be found to be adverse to that of the complainant, the Holly Manufacturing Company, and all the said parties are citizens of the State.

Richard Wood, George Wood, Walter Wood and Stuart Wood, trading as R. D. Wood Co., by Richard C. Dale, their solicitor.

I hereby certify that in my opinion the foregoing demurrer is well founded in law.

RICHARD C. DALE.

CITY AND COUNTY OF PHILADELPHIA, *ss.*

Walter Wood being duly affirmed according to law doth depose and say: I am one of the defendants. I have read the foregoing demurrer and do aver that said demurrer is not interposed for delay.

Affirmed and subscribed to before me, this 4th day January, 1889.

WALTER WOOD,

[SEAL] ARCHER MCLEARN, *Notary Public.*

Endorsed.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY,

vs.

THE NEW CHESTER WATER COMPANY; THE SOUTH CHESTER WATER COMPANY; THE BIENVILLE WATER SUPPLY COMPANY; WILLIAM G. HOPPER and HARRY S. HOPPER, trading, etc.; RICHARD WOOD, GEORGE WOOD, WALTER WOOD, and STUART WOOD, trading, etc.; and WILLIAM BUCKNELL.

In Equity.

October Sessions, 1888,

No. 3.

Demurrers of Richard Wood, George Wood, Walter Wood, and Stuart Wood, trading as R. D. Wood & Co.

Filed January 5, 1889.

SAMUEL BELL,
Clerk.

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(62) *Demurrer of Water Companies to Original and Supplemental Bill.*

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY,

vs.

THE NEW CHESTER WATER CO.; THE SOUTH CHESTER WATER CO.; THE BIENVILLE WALTER SUPPLY CO.; WILLIAM G. HOPPER and HARRY S. HOPPER, trading, etc.; RICHARD WOOD, GEORGE WOOD, WALTER WOOD, and STUART WOOD, trading, etc.; and WILLIAM BUCKNELL.

October Sessions, 1888.

No. 3.

The defendants, The New Chester Water Company and the South Chester Water Company, severally demur to the original bill of complaint, and the supplemental bill of complaint, and assign the following reasons therefor:—

FIRST. That upon the averments of said original and supplemental bill of complaint, no cause of action is shown.

SECOND. That upon the averments of said original and supplemental bill upon which the complainants, The Holly Manufacturing Company, base their prayer for relief, that these defendants should pay to The Holly Manufacturing Company the amount of its claim against Samuel
(63) R. Bullock & Com | pany, the complainant has shown any right to recover any sum of money of these defendants, then complainants' remedy is by an action at law for the recovery of the same, said remedy at law being full, adequate, and complete.

THIRD. That if upon the averments of said original and supplemental bill of complaint the complainant, The Holly Manufacturing Company, has shown any present right of ownership to the pumps mentioned in the bill of complaint, their remedy at law, either by voluntary removal of the same, or by action of replevin, is full, adequate and complete.

FOURTH. That the bill is multifarious, in the joinder of separate and independent causes of action, there being no proper reason for the joinder of complainants' claim for the pumps furnished at Chester with those furnished at Mobile.

FIFTH. That even if the complainant, the Holly Manufacturing Company, has shown any ground for equitable relief in the premises, The Bienville Water Supply Company is a necessary party defendant to any proceedings involving the question of title to the pumps placed in the works of said Bienville Water Supply Company, and said Bienville Water Supply Company has not been served with process in the present case; and even if process had been duly served, this court has no jurisdiction in the premises, because by virtue of the Act of Congress in such case made and provided, the Circuit Court of the United States for the Eastern District of Pennsylvania has no jurisdiction over a suit between citizens of the State of New York and the Bienville Water Supply Company, the said Bienville Water Supply Company being a corporation organized under the laws of the State of Alabama, and an inhabitant of the Southern District of Alabama.

SIXTH. That the joinder of Samuel R. Bullock and William S. Mercer, as parties complainant, was not in accordance with the rules of Equity Pleading, the interests of said Samuel R. Bullock and William S. Mercer being adverse to those of the complainant, the Holly Manufacturing Com | pany; wherefore these defendants show that said Samuel R. (64)
Bullock and William S. Mercer, under the rules of Equity Pleading, should have been joined in this cause as parties defendant, and not as parties complainant; and the said joinder of Samuel R. Bullock and William S. Mercer as parties complainant was also irregular, because it appears from said bill of complainant that said Samuel R. Bullock and William S. Mercer do not seek any relief in this cause, as against the defendants or any of them, but only appear, in order that their rights in the premises may be affected by any decree entered in this cause.

SEVENTH. That this court has no jurisdiction over this controversy or any part of it, because upon arranging the parties to this controversy, according to the real nature of their interests, the interest of Samuel R. Bullock and William S. Mercer will be found to be adverse to that of the complainant, The Holly Manufacturing Company, and all the said parties are citizens of the same State.

I hereby certify that in my opinion the foregoing demurrer is well founded in law.

W. WARD,

Attorney for the Chester Water Co. and the South Chester Water Co.

STATE OF PENNSYLVANIA, }
CITY OF CHESTER, } *ss.*

J. L. Forwood being duly sworn according to law, doth depose and say: That he is the President of the above named defendants, The New Chester Water Company and the South Chester Water Company, respectively. I have read the foregoing demurrer and d[illegible]aver, that said demurrer is not interposed for delay.

Sworn and subscribed to before me, this fifth day of January, 1889.

J. L. FORWOOD,

SAMUEL LYONS,
Notary Public.

[SEAL.]

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(65) IN THE CIRCUIT COURT OF THE UNITED STATES, FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY

vs.

THE NEW CHESTER WATER COMPANY; THE BIENVILLE WATER SUPPLY COMPANY; William G. Hopper and Harry S. Hopper, trading etc.; Richard Wood, George Wood, Walter Wood and Stuart Wood, trading etc.; and William Bucknell.

In Equity.

October Session, 1888.

No. 3.

Demurrer of the New Chester Water Company and the South Chester Water Company.

W. Ward, for the New Chester Water Company, and the South Chester Water Company.

Filed January 5, 1889.

SAMUEL BELL.
Clerk.

Agreement of Counsel. (66)

THE HOLLY MANUFACTURING COMPANY.
THE NEW CHESTER WATER CO., *et al.* } *ss.*

On the application of the plaintiff for a restraining order as to the possession and custody of the pumping engines at Chester, coming up for hearing. It is agreed that the *status quo prior* to the 26th instant, shall be restored and continued, this without prejudice to the rights and demands of any party in the premises.

R. L. ASHHURST.
L. R. & G. W. BOWEN.
for plffs

WM. C. HANNIS.
For Hopper & Co. & Bucknell.

R. C. DALE.
For R. D. Wood & Co.

W. WARD.
Atty. for Chester Water Co.

Endorsed: No. 3. October Session, 1888. Circuit Court of United States, Eastern District of Pennsylvannia. The Holly Mfg. Co. *vs.* New Chester Water Co. *et al.* Agreement of counsel. Filed January 29, 1889.

SAMUEL BELL.
Clerk.

Supplemental and Amended Bill. (67)

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY,	In Equity.
vs.	October Session, 1888.
THE NEW CHESTER WATER CO., *et al.*	No. 3.

To the Honorable, the Judge of the Circuit Court, of the United States for the Eastern District of Pennsylvania.

And now, by leave of the court, first had and obtained the plaintiff in the above case files his supplemental bill of complaint, against the said,

the New Chester Water Company, William G. Hopper and Harry S. Hopper, trading under the firm name of William G. Hopper & Co. The South Chester Water Company, William Bucknell, Richard Wood, George Wood, Walter Wood, and Stuart Wood, trading under the firm name of R. D. Wood & Co., and Thomas Perrot, and the Bienville Water Supply Company.

And thereupon your orator complains and says that since the filing of the original and the first supplemental bill in the above case it has, namely,
(68) on the 9th day of February, 1889, brought its original bill in equity in | the Chancery Court, of Mobile County, Alabama, against Samuel R. Bullock and William S. Mercer, late partners carrying on business under the firm name of Samuel R. Bullock & Co., the Bienville Water Supply Company, the Farmers' Loan and Trust Company, William G. Hopper and Harry S. Hopper as partners, trading and doing business under the firm name of William G. Hopper & Co., William Bucknell, Richard Wood, George Wood, Walter Wood, and Stuart Wood, trading as R. D. Wood & Co., and Thomas R. Perrot, a copy of which your bill, your orator annexed hereto, and prays the same may be treated as portion of this supplemental bill.

That by said bill as on reference thereto will fully appear, your orator has evoked the aid of the said Court of Chancery, of Mobile, Alabama, to establish and enforce its lien and claim against the Pumping Engines, and connections referred to on the 7th, 8th, 9th, 10th, and 11th paragraphs of your orators original bill in this cause and to enforce and maintain its rights in the promises and obtain a sale of the said pumping engines and connections.

Wherefore your orator begs leave to amend the original bill this reference to and recital of the said proceeding.

And thereupon to amend the prayers of the said original bill by striking out the 7th prayer for relief contained in the said original bill and by
(69) modifying the 8th | prayer for relief so that the same shall read as follows:

"8. "That the said defendants, the said William G. Hopper and "Harry S. Hopper, trading as William G. Hopper & Co., William Buck-"nell, Richard Wood, George Wood, Walter Wood, and Stuart Wood, "trading as R. D. Wood & Co., and Thomas Perrot, be severally enjoined "and restrained from selling or in any way disposing of any of the bonds "or stock or either of the said the Bienville Water Supply Company, "which may be in the possession custody or control of any of them "respectively until the right of your orator in said machinery described in "Exhibit B. is established and made effectual by the decree of the "Chancery Court of Mobile County, Alabama, in the said proceeding "above referred to, brought in that court by the Holly Manufacturing "Company against the said defendants and others."

And your orator further prays leave to amend its bill as follows:

By amending 13th paragraph by striking out in the 6th line, words "over the sum of $1,000,000," and in place, insert "a large amount which however your orator is unable definitely to specify."

By amending the 17th paragraph by striking out all of the first sent-

ence after the figures $200,000 in the 6th line, that is to say, by striking out the words "so that the advances in the aggregate made and promised to be made by them upon the faith and pledge of said bonds and stocks amounted to the sum of $1,200,000."

ROWLAND EVANS,
R. L. ASHHURST,
Of Counsel for Plaintiffs.

IN THE CHANCERY COURT OF MOBILE COUNTY, ALABAMA. (70)

THE HOLLY MANUFACTURING COMPANY, *Complainant*,

vs.

SAMUEL R. BULLOCK, *et al.*, *Defendants*.

To the Honorable Thomas W. Coleman, Chancellor of the Southwestern Chancery Division of the State of Alabama, sitting for the fourteenth district of said division.

The Holly Manufacturing Company, a corporation organized, existing and transacting its business under the laws of the State of New York, having its place of business in the city of Lockport, in the county of New York, brings this its bill of complaint against Samuel R. Bullock and William S. Mercer, late partners carrying on business under the firm name of Samuel R. Bullock & Co., who are residents of the State of New York—the Bienville Water Supply Company, a corporation chartered under the laws of the State of Alabama, and having its principal office and place of business in the city and county of Mobile, in said last mentioned State,—the Farmers' Loan and Trust Company, a corporation created and organized | under the laws of the State of New York, and (71)
having its residence in the city of New York, in said State,—William G. Hopper and Henry S. Hopper, as partners trading and doing business under the firm name of William G. Hopper & Co., who are residents of the State of Pennsylvania,—William Bucknell, who is also a resident of said last mentioned State,—Richard Wood, George Wood, Walter Wood and Stuart Wood, as partners trading and doing business under the firm name of R. D. Wood & Co., who are also residents of said last mentioned State,—and Thomas A. Perrot, who is also a resident of the said last mentioned State.

And thereupon, your orator complains and says:—

1. That the said Bienville Water Supply Company is a corporation organized, existing and transacting its business under the laws of the State of Alabama for the purpose of furnishing to the inhabitants of the city of Mobile, in said State of Alabama, a supply of water for domestic and other purposes. And with the view of enabling it to furnish water to the inhabitants of said city of Mobile, and of carrying into effect the

object of its existence, the said Bienville Water Supply Company, heretofore and prior to the 13th day of December, 1886, made and entered
(72) into an agreement with the said firm of Samuel | R. Bullock & Co., to construct ready for operation a complete system or set of water works in and near said city of Mobile, and as a part of said system to erect and construct an engine and pump-house, and to place therein the necessary pumping machinery, and in and by which contract the said Bienville Water Supply Company did agree to pay said Samuel R. Bullock & Co., therefor a certain sum in the bonds and shares of the capital stock of said company.

To procure a site for such engine and pump-house, said Samuel R. Bullock & Co. purchased a tract of land situate in the said county of Mobile, described as the southwest quarter of the northeast quarter of section thirty-three, in township three south, of range two west, and on the 13th day of December, 1886, received from their grantor a conveyance of said tract to them. They immediately took possession thereof and erected thereon an engine and pumping-house. On the 21st day of March, 1888, they conveyed said tract of land to said Bienville Water Supply Company.

2. And orator further shows that, with the view and for the purpose of enabling said Samuel R. Bullock & Co. to obtain the funds and means with which to carry out and complete the said contract on their part, the
(73) said Bienville Water | Supply Company did thereupon, and prior to the twenty-fourth day of February, 1887, make, execute, and deliver to the said defendant, the Farmers' Loan and Trust Company, a mortgage upon all its real estate, franchises, and the rents, issues, and profits to be derived therefrom, in trust to secure the holders of the bonds to be issued by said Bienville Water Supply Company, in the sum of $750,000, and did also, thereupon, make and duly execute its bonds in the aggregate sum of $750,000, and did issue and deliver the said bonds together with certificates for the full amount of its capital stock, being the sum of $500,000 par value, to said Samuel R. Bullock & Co., to be used for the construction of said water supply system, and to enable the said Samuel R. Bullock & Co. to proceed with and complete the same, and to be payment to them therefor when completed. Said trust was accepted by said Farmers' Loan and Trust Company, and it is still acting as such trustee.

3. And your orator further complaining says that, on the 24th day of February, 1887, the said Samuel R. Bullock & Co., for the purpose and with the view of complying in part with their said contract with said Bienville Water Supply Company, made and entered into an agreement
(74) in writing with your | orator, in and by which your orator did agree to manufacture and set up in working order in the aforesaid pump-house of the said Bienville Water Supply Company, certain machinery, to wit: two Gaskill crank and fly-wheel horizontal pumping engines and connections, more particularly specified and described in the said contract, a copy whereof is hereunto annexed as Exhibit A, for which said Samuel R. Bullock & Co. did agree to pay your orator the sum of $50,000, as and in the manner in said contract specifically set forth, as appears by

the copy of said contract hereto annexed as aforesaid, which your orator prays may be taken as a part of this bill.

4. That in pursuance of said agreement with said Samuel R. Bullock & Co., your orator has constructed and erected the said two pumping engines and connections as particularly specified in said contract, in the engine and pumping-house hereinbefore mentioned. The first of said engines with its connections, was so erected prior to the 21st day of March, 1888, orator had commenced to so erect the second thereof prior to said date and was engaged in so erecting the same at such date, and finished the erection thereof prior to the 15th day of June, 1888.

A pump is connected with and constitutes a part of each engine. (75)
Each engine and pump is placed upon a foundation and fastened thereto by bolts with taps, and can be removed therefrom without injury to it or to the structure of the pumping-engine house.

Orator shows that the connections referred to in its said contract and so erected by it, consist of:

First. A twenty-four inch cast-iron pipe, or sections of pipe running through an outer wall of the pumping-engine house, and connecting at a joint on the outside of said wall with a suction pipe for the supply of water to the pumps.

Second. A twenty-inch cast-iron pipe, or section of pipe, running through an outer wall of said house and connecting on the outer side of said wall with a supply pipe, through which water is forced to the reservoir or to the main.

Third. Two six-inch wrought-iron steam pipes, or sections of pipe, running from the engines through a partition wall of said house into the boiler room thereof, and in said boiler room connecting at a joint with a similar pipe running from boilers.

Each of said pipes from the engines up to its above-men | tioned joints (76)
on the opposite side of the wall, is a part of the connections furnished by orator, and upon which it reserved a lien as specified in its said contract.

Said pipes pass through carefully prepared openings in the walls, and can be unjointed and withdrawn without injury to the connecting pipes or to the walls.

5. Orator shows that it has in all ways fulfilled and performed said contract on its part, but that said Samuel R. Bullock & Co. have not, nor has any person in their behalf, paid to your orator the said sum of $50,000 in full, but have made partial payments thereon; and after said engines were so completed and set up the said Samuel R. Bullock & Co. accepted the same as in full compliance on the part of your orator with the said contract, and on accounting heretofore had between your orator and said Samuel R. Bullock & Co., there was found to be due and unpaid to you orator, on the eleventh day of August, 1888, the sum of $25,000, which sum still remains and now is due and unpaid of said $50,000.

Orator shows that said Samuel R. Bullock & Co. were indebted to it upon another contract in the amount of $41,667, as ascertained and
(77) adjusted upon the accounting so had on the | 11th of August, 1888, and that for the whole amount so due upon both contracts, and the lawful costs thereon, it recovered a judgment against said Samuel R. Bullock & Co., on the 26th day of November, 1888, for the sum of $67,811.44 in the Court of Common Pleas, No. 4, for the county of Philadelphia, in the State of Pennsylvania, which Court had jurisdiction to render such judgment.

It shows that $25,437.50 of the amount of said judgment was for and on account of the balance so due orator on the contract, Exhibit A, hereto.

It shows that no part of said judgment has ever been paid, and that the whole amount thereof, with interest thereon at the rate of six per cent. per annum, is now due and owing to it, and that $25,437.50 thereof, with interest thereon at the rate of six per cent. from said 26th day of November, 1888, is now due and owing to it as the balance of the purchase-price of the engines and connections hereinbefore mentioned.

6. That in and by said contract, Exhibit A, hereto, it was expressly provided that your orator should have a lien upon all said engines and the connections thereof, and might remain in and have full possession thereof
(78) until the whole | amount of the purchase price of said engines and connections should have been fully paid to it, and your orator, under and in accordance with said provision and of its rights thereunder to retain the legal ownership, possession and control of said pumping engines and connections, has during all the time heretofore retained the possession, custody and control of the same, and is now in the actual possession, custody and control thereof. And to maintain and make manifest said control, possession and custody, your orator has retained its servant in direct, open and exclusive charge thereof, but has allowed such engines, pump and other connections to be run and used, under the direction and control of its servant, for the purpose of supplying water to said system to fulfill contracts therefor, made by Samuel R. Bullock & Co., and said Bienville Water Supply Company, and the same are now being so run and used.

7. And your orator further complaining, says that subsequent to the making of said contract between it and said Samuel R. Bullock & Co., for the construction of said engines and pump, and connections, the said Samuel R. Bullock & Co., in order to raise the money to carry on the construction of said system of water works, and several other like water
(79) company | systems which they were then engaged in constructing, and to pay among other things, for the construction and erection of said pumping engines and other machinery so contracted for with your orator as aforesaid, and prior to January 1st, 1888, made an arrangement with the defendants, William G. Hopper & Co., by which the latter were to loan and advance, or to procure to be loaned or advanced, to said Samuel R. Bullock & Co., certain large sums of money upon the pledge and collateral security of the aforesaid bonds and stocks so issued by said

Bienville Water Supply Company, and other like bonds and stocks issued by the other water companies above referred to. And in accordance with such arrangement, said Samuel R. Bullock & Co. did pledge and deliver to the said William G. Hopper & Co., the said bonds and stocks of said Bienville Water Supply Company and of said other Water Companies, as a security for such sums of money as they might loan or advance, or cause or procure to be loaned or advanced to said Samuel R. Bullock & Co.

8. That in pursuance of said arrangement and upon the said pledge of said bonds and stocks, the said William G. Hopper & Co., did so advance and loan from time to time, or procure to be advanced and loaned from time to time, certain sums | of money to said Samuel R. (80)
Bullock & Co. aggregating over the sums of $1,000,000. The said William G. Hopper & Co. were at the time fully informed and had knowledge of the fact that the said water works, for the completion of which their advances were to be used, were in an unfinished condition, and afterwards learning that the money which they had advanced upon the faith of said bonds and stocks was not sufficient to complete the same, they declined to make any further advances on account thereof.

9. Before the said refusal of the said Hopper & Co., to make such further advances as hereinabove set forth the defendants R. D. Wood & Co., had furnished to said Samuel R. Bullock & Co., large quantities of iron pipe and other materials to be used in the construction of said several water works, and were under contract to deliver to be used in the completion of said water works for or on account of which the Samuel R. Bullock & Co., were indebted to the said R. D. Wood & Co., in a large amount; and in consideration and on account thereof, and in view of the fact that said Hopper & Co., had so declined to make such further advances, and for the purpose of completing the construction of said water works in accordance with the con | tracts of Samuel R. Bullock & (81)
Co., with the said water companies respectively, and for the purpose of obtaining payment for the pipe which they had as aforesaid furnished, and which they might thereafter furnish, and to secure the amounts already due R. D. Wood & Co., for the iron pipe and other materials previously furnished and contracted to be furnished, the said R. D. Wood & Co., Samuel R. Bullock & Co., and William G. Hopper & Co., on the 26th day of October, 1887, entered into a certain agreement in writing a true copy whereof is hereto attached as Exhibit B, and is prayed to be taken as a part of this bill.

10. And thereupon, as your orator is informed, the said William G. Hopper & Co., from time to time did advance or procure to be advanced to the said Samuel R. Bullock & Co., under and pursuant to and in the faith of said agreement last above set forth, to which said R. D. Wood & Co., were a party, the further sum of $200,000, so that the advances in the aggregate made and procured to be made by them, upon the pledge of said bonds and stocks, amounted to the sum of $1,200,000.

(82) Orator charges that said R. D. Wood & Co., have failed to | execute their obligation assumed by the third clause of said agreement, especially in that they have failed to pay orator the balance due it as hereinbefore charged for the purchase price of the engines and connections furnished by it under the contract Exhibit A hereto, though often requested so to do.

11. Orator, upon the information and belief, further charges that, on the 9th day of November, 1888, defendant Samuel R. Bullock & Co., executed in the name of his said firm, in liquidation, and delivered to defendant Perrot a certain instrument in writing whereby, for the nominal consideration of one dollar therein expressed, for himself individually, and representing his said firm he assigned to said Perrot the contract between his said firm and said Bienville Water Supply Company referred to in the first paragraph of this bill.

Your orator, on information and belief, avers that the said Perrot is a clerk or book-keeper in the office of said defendants R. D. Wood & Co., and that such assignment to him was made in trust for the said R. D. Wood & Co., and not for his individual benefit or for individual consideration paid by him; nevertheless, as the said contracts and all rights of said Samuel R. Bullock & Co., thereunder have been undertaken to
(83) be | assigned to said Perrot, your orator joins him as a defendant to this bill.

12. Your orator is further informed and believes, and on such information and belief avers, that on the same ninth day of November, the said Samuel R. Bullock executed two other assignments directly to said R. D. Wood & Co. By the first of these assignments it was declared that said Samuel R. Bullock & Co., assigned and transferred to said R. D. Wood & Co. (inter alia) all their claims, demands, and actions or causes of actions which had arisen or might thereafter arise under the existing contract against the said Bienville Water Supply Company.

By the second of said assignments, it was declared that the said Samuel R. Bullock and Samuel R. Bullock & Co., assigned and transferred to the said R. D. Wood & Co., all the right, title and interest of said Samuel R. Bullock and said Samuel R. Bullock & Co., in and to the stocks and bonds of a number of corporations, among which were the said Bienville Water Supply Company, in whose hands any or all of such stock or bonds might be, or any portion of them, and to hold and pay over to the said R. D. Wood & Co., any surplus in case of a sale of the same.

(84) 13. Your orator on information and belief avers, | that the said Thomas A. Perrot and R. D. Wood & Co., have accepted the said assignments to them, respectively, and so far as the nature of the case permits taken possession of the property and interest thus assigned, and propose to act upon and under the same, and realize for themselves and for their benefit the benefical interests conveyed in and by the said instruments of assignment, and that they will endeavor, in fact, to proceed to reduce the

property therein assigned to possession and to realize thereon as speedily as the nature of the case will permit.

14. And your orator further shows that a portion of or all of the money furnished as aforesaid to said S. R. Bullock & Co. and R. D. Wood & Co., by said Hopper & Co., was loaned and advanced by the defendant William Bucknell, and, therefore, as your orator is informed, said Bucknell claims to be interested in the subject matters hereinbefore set forth, and particularly in the bonds and stocks of said Bienville Water Supply Company held by William G. Hopper & Co., as hereinbefore alleged, to the extent of the amount so loaned or advanced by him. Wherefore your orator has also united him as a defendant herein.

Your orator further says that the said advances so as | aforesaid made (85) or procured to be made by the said William G. Hopper & Co. and William Bucknell, have not repaid in whole, and that the said W. G. Bucknell, have not been repaid in whole, and that the said W. G. Hopper & Co. still hold and retain the said bonds for such advances and under and pursuant to the agreement Exhibit B. hereto.

15. Orator shows that neither one of the defendants hereto has any claim upon or interest in the engines and connections so placed by it in the engine and pumping-house of said Bienville Water Supply Company, save as herein before set forth, but that said defendants respectively claim that, by virtue of their rights acquired as above stated, they have a property in, or encumbrance upon, said engines and connections superior to the lien of orator thereon.

Orator is advised and therefore charges that, the premises considered, any right or interest that any of said defendants may have in said engines and connections under the facts hereinbefore stated, is subject and subordinate to the lien of orator as reserved in and by the contract Exhibit A hereto, even though such right or interest may have been acquired without notice of orator's said lien.

But however that may be, it charges that such right or in- | terest of (86) each of said defendants was acquired with notice of its said lien.

16. Orator charges that said water works system, while not fully completed, was after the 11th day of August, 1888, practically turned over to said Bienville Water Supply Company, subject to orator's possession and control of said engines and connections as above set forth, and that said Company is now operating the same; that orator has incurred considerable expense in the employment of a competent party to hold possession thereof for it and must continue to incur such expense so long as it is necessary for it to hold such possession for its protection; that said engines and connections require constant and skilled care and attention for their preservation from injury when not in operation, and still more when in use; that they cannot be operated as is now being done, or as is necessary for the supply of water for said Bienville Water Supply Company's use, without risk of injury or destruction which might altogether destroy their value as security for the payment of orator's aforesaid claim.

Orator is willing that such engines and connections shall be so operated,
(87) in the custody and under the control of this | court, during the pendency of this suit, provided it shall be adequately secured against loss from any injury or destruction thereof resulting from such use.

Orator shows that it has demanded payment of its said claim of said Samuel R. Bullock & Co., and of said Bienville Water Supply Company, but such payment has been refused; that said Samuel R. Bullock & Co., are wholly insolvent; and that all of the assets of said Bienville Water Supply Company are so encumbered by the mortgage made by it as aforesaid that it would be practically irresponsible to orator for any damages sustained by said engines and connections while being so operated.

Prayed for Relief.

The premises considered, orator prays that an account be taken under the direction of this Honorable Court, of the amount of principal and interest due it from defendants Samuel R. Bullock & Co., upon its judgment hereinbefore stated, on account of the purchase-price of the engines and connections constructed and erected by it under its contract Exhibit A hereto, as above set forth; that for the satisfaction of the amount so ascertained to be due it, the said engines with the pumps forming parts thereof, and other connections thereof hereinbefore specified, be sold under
(88) the order and decree of this court, free and dis- | charged of all claims and interests of each of the defendants thereon or therein; and that for such sale, the same be, under the direction of the court, severed and removed from their foundation and connections, and stored in some safe place, or that the same be so sold with express authority to the purchaser to so sever and remove them, as may seem to your Honor best; and that your Honor will forthwith appoint some suitable person receiver to take charge of, hold and care for said engines and connections pending this suit, and will restrain the same from being used and operated for the benefit or convenience of said Bienville Water Supply Company, or for any other purpose whatever, pending this suit unless some sufficient bond or other security be first made and taken, under the direction of the court, for orator's protection against loss from injury to or destruction of the same resulting from such use; and that orator have such other and further or different relief as the circumstances of its case may require and to your Honor shall seem meet.

Prayer for Process.

May it please your Honor to grant unto orator the State's writ of sub-
(89) pœna directed to said defendant the Bienville Water | Supply Company, and that defendants Samuel R. Bullock and William S. Mercer as late partners under the firm name of Samuel R. Bullock & Co., the Farmers' Loan and Trust Company, William G. Hopper and Harry S. Hopper, as partners under the firm name of Wm. G. Hopper & Co., Wm. Bucknell, Richard Wood, George Wood, Walter Wood and Stuart Wood, as partners under the firm name of R. D. Wood & Co., and Thomas A. Perrot, be brought into court by order of publication and publication thereunder,

made in accordance with law and the rules of the court; and that they be thereby required to appear and answer the premises, as by foot note hereunder specified, within the time and under the penalties prescribed by law.

And, as in duty bound, etc.

R. H. CLARKE
L. F. & G. W. BOWEN.
Solicitors for Complainant.

NOTE.—Each of the defendants is required to answer all of the paragraphs of the foregoing bill, but oath to the answer of each is hereby waived.

R. H. CLARKE,
L. F. & G. W. BOWEN,
Solicitors for Complainant.

EXHIBIT A. (90)

This Agreement made and concluded this twenty-fourth day of February, A. D. 1887, by and between Samuel R. Bullock & Co., of No. 11 Wall Street, in the city and State of New York, party of the first part; and the Holly Manufacturing Company, of the city of Lockport in the same State, party of the second part.

Witnesseth, that the said party of the second part in consideration of the payments hereinafter mentioned to be made to it by the said party of the first part, does hereby and herein covenant, promise and agree, to and with the said party of the first part, that it the said party of the second part, shall and will, at its own proper cost, manufacture for the party of the first part, two (2) of the Gaskill Crank and fly wheel horizontal Pumping Engines, having H. P. cylinders 21 inches diameter, L. P. cylinder 42″ diameter, plunger 20″ diameter, stroke 36″; and hereby guarantees each of them to pump five million U. S. gallons of water per 24 hours against a head of 200 feet for domestic service, or against a head of 300 feet for fire service exclusive of friction, at a piston speed not to exceed 112 feet per minute, and that both together will discharge ten | million gallons in 24 hours under the same pressure less (91) the increased friction in the main, or that each of said engines shall be capable of lifting six million gallons of water under the same conditions at a piston speed not to exceed 135 feet per minute, and that each engine will perform under the domestic head of 200 feet at test duty of 100 million foot pounds for each 100 pounds of coal consumed, said duty to be based on a boiler evaporation of ten pounds of feed water to one pound of coal.

And the party of the second part further agrees to set up said pumping engines in complete working order in the pumping station of The Bienville Water Supply Company near Mobile, Ala., (upon foundations furnished by the party of the first part, from drawings prepared by the party of the second part, in time to allow the party of the first part to

get said foundations ready for erecting thereon the said pumping engines within the dates herein stated therefor), for the sum of fifty thousand dollars ($50,000) payable as hereinafter set forth, said price being based upon present rates of freight, and if there be any material increase over the present rates at the time of shipment, such increase shall be added to
(92) said price of | $50,000. It is further agreed that one of said engines shall be set up so that it can be used for a test on July 1st, 1887, and the other erected not later than three months thereafter.

The price above named is to include the complete work of erecting and putting in place both pumping engines and all necessary steam and water pipes needed within the walls of the engine room, also the furnishing with the necessary connections inside the pump room of a direct acting steam pump of sufficient capacity to easily supply the water needed by the boilers, which boilers are to be furnished by the party of the first part, for generating steam for the plant, also a complete set of wrenches, gauges, brass oil trays, drip pans and oilers for each engine.

All material used in the construction of said pumping engines are hereby guaranteed to be of the best description of their kind.

The party of the first part agrees that they will, at their own cost, construct and prepare the necessary buildings and foundations for said engines and connections, in a proper manner, of materials of the very best description of their kind, according to plans therefor to be made by
(93) the party of the sec | ond part, and to bring the suction and discharge mains, and steam and feed pipes from the boilers, to convenient and accessible points within said pump room, all to be done in time so that the party of the second part shall not be delayed in completing said engines and connections by the time herein mentioned.

In the event of delays in completing the building and foundations by the party of the first part, such delay shall work an equal extension of the stipulated time for setting up and completing said engines.

When said engines and connections are completed and ready for service, and on notice thereof to the party of the first part to that effect, the same shall be subjected to a fair trial of their capacity and efficiency, for not exceeding 24 hours, and on their successful testing thereof, the liability of the party of the second part hereunto shall cease and determine, but it is expressly understood and agreed that the party of the second part shall have a lien on all of said engines and connections and the said party of the second part may remain in and have full possession thereof until the whole amount of the purchase price of said engines and connections
(94) shall have been | fully paid to the party of the second part or its assigns.

The party of the first part is to furnish steam and water for any and all of tests of said engines and connections in due time and in sufficient quantities, failing in which for fifteen days, any part or all of the purchase money then unpaid shall thereupon become due and payable, but without prejudice to making a proper test of said engines and connections at any time within six months thereafter, if required by either party hereto.

And the party of the first part hereby further agrees to pay the party of the second part for the said engines and connections so completed and

ready for service as herein set forth, the said sum of fifty thousand dollars as follows:

$8333.33 when the first engine is delivered in Mobile.
$8333.34 when the first engine has been properly run 30 days and
$8333.33 in sixty days thereafter.
$8333.33 when the second engine is delivered in Mobile.
$8333.34 when the second engine has been properly run 30 days.
$8333.33 in sixty days thereafter.

In witness whereof the party of the first hath hereto | set its hand and (95) seal, and the party of the second part hath caused this agreement to be signed by its Secretary and its corporate seal to be affixed, the day and year first written above.

(Signed) SAMUEL R. BULLOCK & CO. [SEAL]
(Signed) THE HOLLY MANUFACTURING CO.
C. G. HILDRETH,
[SEAL] *Secretary.*

EXHIBIT B.

Whereas certain agreements have been made between Samuel R. Bullock & Company and William G. Hopper & Company, in which the latter agreed to procure for the former certain advances to enable them to construct certain water-works, now in course of construction, the final advances whereof were to be paid when the said works were respectively completed according to their specifications;

AND, WHEREAS, certain of the bonds and stocks of said Water Companies were pledged by the said Samuel R. Bullock & Company as collateral for said advances;

AND, WHEREAS, all of said advances have been made except such | as (96) are upon the completion of said water-works respectively;

AND. WHEREAS, it has been found that the balances still due will not be sufficient to complete the said water-works as agreed;

AND, WHEREAS. the said Samuel R. Bullock & Co, have assigned to R. D. Wood & Co., the stocks and bonds pledged to William G. Hopper & Co., and William Bucknell as collateral security for materials furnished to them by the said R. D. Wood & Co.;

AND, WHEREAS, the said Samuel R. Bullock & Co., and the said R. D. Wood & Co. have entered into certain contracts by which the said R. D. Wood & Co., have agreed to complete water-works at Chester, Greencastle and Mobile according to specifications respectively, and the said Samuel R. Bullock & Co. have represented that the sum of two hundred thousand dollars will enable them to complete the said water-works and put the same in operation;

AND, WHEREAS, the said William G. Hopper & Co. are willing to procure the said advance of two hundred thousand dollars to be made to the said Samuel R. Bullock & Co. upon the terms and conditions hereinafter stated:

Now this agreement made between the said Samuel R. Bullock & Co. R. D. Wood & Co., and William G. Hopper & Co., witnesseth: That the
(97) said parties in consideration of | the promises agree to and with each other as follows:—

First.—That the said Samuel R. Bullock and Company and R. D. Wood and Company, hereby release the said William G. Hopper and Company, from all obligations to furnish further advances under the agreement above recited.

Second.—The said William G. Hopper & Company agree to advance to Samuel R. Bullock & Company the sum of two hundred thousand dollars as the same may be needed, the said sum to be applied by R. D. Wood & Company from time to time exclusively in the completion of the water-works at Chester, Mobile and Greencastle on account of work and materials yet to be furnished at said water-works, and to be appointed about as follows:

Chester Water-Works, - - - - - -	$129,800
Greencastle Water-Works, - - - - - -	10,000
Mobile Water-Works, - - - - - -	60,200
	$200,000

but any surplus on any one of said works may be applied to a deficiency on the others.

Of the money so to be applied to work and materials yet to be furnished at Chester, the said R. D. Wood and Co., are not to apply more than twenty-five thonsand dollars toward the payment of their claims for
(98) materials yet to be delivered unless the other | claims for labor and material shall be paid in full.

The said R. D. Wood and Co., shall from time to time present to William G. Hopper and Co., the detailed application for money needed for the purposes aforesaid by the said Samuel R. Bullock and Co., to pay for labor and materials to an aggregate amount not exceeding two hundred thousand dollars, in the proportions hereinbefore named at Chester, Greencastle and Mobile, to which application shall be attached the four months note of Samuel R. Bullock and Co., for the amount therein specified with discount added, whereupon the said William G. Hopper and Co., shall pay the said R. D. Wood and Company, the said amount so called for, in all not exceeding two hundred thousand dollars, and the said R. D. Wood and Co., will then immediately give their checks for the same to the said Samuel R. Bullock and Co., who shall disburse the same for the purpose aforesaid and give to R. D. Wood and Co., the proper certification and vouchers therefor.

Third.—In consideration of the said advance of two hundred thousand dollars to Samuel R. Bullock and Co., and of one dollar to them paid, the said R. D. Wood and Co., agree to procure the completion of the said water-works at Chester, Mobile and Greencastle according to the specifi-

cations and clear of all | liens ahead of the securities, held by William (99)
G. Hopper and Co., with the utmost diligence and without delay; and further agree that the said sum of ten thousand dollars applicable to Greencastle Water Works shall be applied at once to that purpose and that the water shall be turned on and said water-works at Greencastle put in operation within twenty days from the date hereof.

Fourth.—The said William G. Hopper & Co., agree to carry the amounts now due to them by the said Samuel R. Bullock & Co., represented by the notes now in their possession and also the advance of two hundred thousand dollars agreed to be made under this contract at the rate of six per cent. per annum, and as the notes given therefor mature the discount thereon is to be added from time to time, until the completion of the water-works, and after the completion of the said water-works the said William G. Hopper Co. agree to carry the amount then due them, represented by the notes then in their possession for a further period of eighteen months, if desired, to be computed from the first day of February, 1888, the renewals of said notes after completion of said works to be every four months as at present, the discount, however, to be then paid in cash instead of added | to the notes. Provided that if the discount on (100)
said notes be not paid as it becomes due after relieved from their obligation to carry said loans for the said period of eighteen months, or any part thereof. And if default be made in the payment of the discount, when the same ought to be paid on any of the notes now held or on the renewals of the same from time to time, or of any of the notes hereafter to be given for said sum of two hundred thousand dollars or on the renewals thereof from time to time, the said William G. Hopper & Co., are hereby authorized after given ten days' written notice to R. D. Wood & Co. and Samuel R. Bullock & Co. to sell either at public or at private sale, sufficient of said bonds and stock to pay the said note, discount, and costs of sale in full, and are hereby authorized to buy such bonds and stock at such sale, it being hereby agreed that the whole amount of bonds and stock held by the said William G. Hopper & Co. shall be treated as collateral for the whole amount of the indebtedness of the said Samuel R. Bullock Co., to them, including the said sum of two hundred thousand dollars yet to be advanced.

Fifth.—The said William G. Hopper & Co. are to receive a commission of one-and-one-half per cent. on the sale of the | said securities in their (101)
hands in lieu of all other compensation under the agreements heretofore made between them and the said Samuel R. Bullock & Co. and the said William G. Hopper & Co. are to have said compensation whether the said bond are sold by them or by any other party, and they are to sell the said bonds and stock at such price as the said R. D. Wood & Co. and the said William G. Hopper & Co. is promptly paid when due; provided that when the claims of the said William G. Hopper & Co. are paid in full, R. D. Wood & Co. shall have the power to direct the sale of the bonds.

Sixth.—It is hereby agreed that the proceeds of the bonds and other

securities held by the said William G. Hopper & Co. as collateral aforesaid when sold by them, shall be applied in the following order of priority:

1. To secure the payment of all notes or the renewals of the same and interest thereon at 6 per cent. due by the said Samuel R. Bullock & Co. to the said William G. Hopper & Co., under the above recited contracts, and also the said sum of two hundred thousand dollars herein agreed to be advanced and interest thereon at 6 per cent. and also the one-and-one-half per cent. commission due to said William G. Hopper & Co. for the |
(102) sale of said securities.

2. The balance of said proceeds remaining to be paid to the said R. D. Wood & Co.

In Witness Whereof, The parties hereto have put their signatures this twenty-sixth day of October, 1887.

SAMUEL R. BULLOCK & CO.,
R. D. WOOD & CO.,
WILLIAM G. HOPPER & CO.

Signed in presence of Richard C. Dale, Wm. C. Hannis.

Endorsed.

No. , Chancery Court, Fourteenth District, Southwestern Division, Mobile County, Alabama. The Holly Manufacturing Co., Complainant, *vs.* Samuel R. Bullock, *et al.*, Defendants. Original bill. Filed Feb. , 1889.

.....*Register.*

R. H. CLARKE,
L. F. & G. W. BOWEN, } *Solicitors.*

(103) *Endorsed.*

HOLLY MANUFACTURING CO.,	In Equity.
vs.	October Sessions, 1888.
NEW CHESTER WATER CO.	No. 3.

Supplemental and Amended Bill.

Filed Mar. 19, 1889.

SAMUEL BELL,
Clerk.

Additional Grounds of Demurrer on behalf of Richard Wood, et al. (104)

HOLLY MANUFACTURING COMPANY, a Corporation, etc.,	U. S. C. C.
vs.	October Sessions, 1888.
THE NEW CHESTER WATER CO., *et al.*	No. 3.

And now April 1, 1889, the defendants Richard Wood, *et al.* by Richard C. Dale, Esq. their Solicitor, assign the following additional grounds of demurrer:

(*a*) That it appears from the original and supplemental bill as amended, that the Farmer's Loan and Trust Company of New York is a necessary party defendant.

(*b*) That the original and supplemental bill as amended in that it is multifarious, in that inter alia it seeks relief concerning distinct and independent matters, to wit, the establishment of a specific lien upon pumps, now located at Chester, Pennsylvania and an injunction restraining defendants from selling the mortgage bonds of the Bienville Water Company.

RICHARD C. DALE,
for RICHARD WOOD, *et al.*

Endorsed: No. 3. Oct. Sess., 1888. U. S. C. C. Holly Manufacturing Company, a corporation, etc., *vs.* The New Chester Water Company, *et al.* Additional grounds of demurrer.

R. C. DALE.

Filed April 1, 1879.

SAMUEL BELL.
Clerk.

Additional Grounds of Demurrer on Behalf of W. G. Hopper & Co. and William Bucknell. (105)

HOLLY MANUFACTURING CO.,	U. S. C. C.
vs.	October Sessions, 1888.
THE NEW CHESTER WATER CO.	No. 3.

And now April 2, 1889, the defendants W. G. Hopper & Co. and William Bucknell by William C. Hannis, Esq. their solicitor assigned the following additional grounds of demurrer.

(*a*) That it appears from the original and supplemental bill as amended that the Farmer's Loan and Trust Company of New York is a necessary party defendant.

(*b*) That the original and supplemental bill as amended is multifarious in that among other things it seeks relief concerning distinct and independent matters, to wit: The establishment of a specific loan upon pumps now located at Chester, Penna, and an injunction restraining defendants from selling the mortgage bonds of the Bienville Water Company.

WM. C. HANNIS,
for W. G. HOPPER & CO.,
& WM. BUCKNELL.

Endorsed: No. 3. Oct. Sess., 1888. U. S. C. C. Manufacturing Company *vs.* Hopper & Co. Additional grounds of demurrer on behalf W. G. Hopper & Co., & Wm. Bucknell.

Filed April 2, 1889.

HANNIS.

SAMUEL BELL,
Clerk.

(106) And, afterwards, to wit: On the 17th day of April, A. D., 1889, come the parties aforesaid by their solicitors aforesaid, and this cause being called for argument on demurrers, and having been argued by counsel for the respective parties the demurrers are withdrawn by leave of the Court, and defendants ordered to answer on or before the first Monday of June next.

(107) ANSWER OF RICHARD WOOD, GEORGE WOOD, WALTER WOOD AND STUART WOOD, TRADING AS R. D. WOOD & CO.

UNITED STATES CIRCUIT COURT.

THE HOLLY MANUFACTURING COMPANY
vs.
THE NEW CHESTER WATER COMPANY, *et al.*

October Sessions, 1888.

No. 3.

To the Honorable the Judges of the Circuit Court of the United States for the Eastern District of Pennsylvania:

The answer of Richard Wood, George Wood, Walter Wood and Stuart Wood, co-partners doing business under the firm name of R. D. Wood & Co., to the original and supplemental bills of complaint as amended of the Holly Manufacturing Company.

These defendants, now and at all times hereafter saving to themselves any and all manner of benefit or advantage of exception or otherwise that can or may be had or taken to the many errors, uncertainties, and imperfections in the said bill contained, for answer thereto, or to so much thereof as these defendants are advised it is material or necessary for them to make answer to, answering say:

1. These defendants admit that the plaintiff Holly Manufacturing Company is a corporation organized under the laws of the State of New York, and a citizen of said State, and that the plaintiffs, Samuel R. Bullock and William S. Mercer, are citizens of the State of New York, and that the defendants, the New Chester Water Company and the South Chester Water Company, are corporations organized under the laws of and citizens of the State of Pennsylvania, and that the defendants William G. Hopper and Harry S. Hopper, Willliam Bucknell, Thomas A. Perrot, and these answering | defendants are citizens of the (108)
State of Pennsylvania, and that the Bienville Water Supply Company is a corporation organized urder the laws of and a citizen of the State of Alabama.

These answering defendants admit that the New Chester Water Company and the South Chester Water Company are corporations organized for the purpose of furnishing to the inhabitants of Chester, in the county of Delaware and State of Pennsylvania, water for domestic use and other purposes, and that the New Chester Water Company and the South Chester Water Company are the owners and in possession of certain real estate in Chester occupied for the purpose of their business, upon which there has been erected and now stands a pumping-engine house; these defendants also admit that the New Chester Water Company and the South Chester Water Company, on the twenty-first day of March, 1887, entered into agreements with Samuel R. Bullock & Co. for the construction of a water-works plant, and for certainty in stating the terms of the agreement reference is hereby made to the answer of the water companies filed in this cause.

2. These answering defendants admit that the New Chester Water Company did make a mortgage bearing date April 1, 1887, to secure an issue of bonds to the amount of $500,000, and that the South Chester Water Company did make a mortgage of the same date to secure an issue of bonds to the amount of $300,000, and that both of said mortgages are recorded in the office for recording deeds in Delaware County, and that the Farmers' Loan and Trust Company of New York, a corporation existing under the laws of and a citizen of the State of New York, is the mortgagee named in each of said mortgages as trustee for the holders

of bonds issued thereunder. The defendants admit the said mortgages are a first lien on all its property described therein, and for greater certainty as to the terms thereof beg leave to refer to said mortgages which are duly recorded in the office for recording deeds in Delaware County, in the State of Pennsylvania. These defendants admit that the New
(109) Chester Water Company | did issue its bonds to the amount of $500,000, and the South Chester Water Company did issue its bonds to the amount of $300,000, secured by the said mortgages respectively, and did deliver the same bonds to Samuel R. Bullock & Co. in pursuance of the terms of the contract hereinbefore recited; but these defendants deny that the said mortgages were made or said bonds issued with the view and for the purpose of enabling said Samuel R. Bullock & Co. to obtain the funds and means with which to carry out and complete the said contracts; but, on the contrary, they do aver that the said mortgages were made and the bonds issued thereunder in order that the said Water Companies might comply with the terms of the contract made with Samuel R. Bullock & Co. for the construction of said works.

3. These defendants admit that the plaintiffs, Samuel R. Bullock & Co., and the plaintiffs, the Holly Manufacturing Company, made the contract attached to the bill as Exhibit A, and refer to said exhibit for a true statement of the terms and legal effect of said contract.

4. These defendants admit that the plaintiffs, the Holly Manufacturing Company did construct and erect the two pumping-engines mentioned in said contract, and they do aver that the work of constructing and erecting the same was completed prior to the fifteenth day of June, 1888, and that the work of construction having been completed, the said pumping-engines were accepted by Samuel R. Bullock & Co. who delivered possession of the said engines to the said New Chester Water Company and the South Chester Water Company, in performance of the contract between the said Samuel R. Bullock & Co. and the said water companies of March 21, 1887, and hereinbefore recited, and the said water companies paid the said S. R. Bullock & Co. the full consideration therefor without any notice of the alleged claim of the complainant, and since the acceptance of the pumping-engines by Samuel R. Bullock & Co., and their delivery to the New Chester Water Company and the
(110) South Chester Water | Company, these defendants are informed and therefore aver that the said water companies have continuously had the full use and enjoyment of the same, and have been supplying the citizens of Chester with water pumped by said engines.

5. These defendants have no knowledge of the payments made by Samuel R. Bullock & Co to the Holly Manufacturing Company, and ask that the complainant the Holly Manufacturing Company prove what balance, if any, is due to it by Samuel R. Bullock & Co., if the same be material.

6. The defendants beg leave to refer to the contract mentioned in the sixth paragraph of the bill for the correct statement of its terms and conditions, but they do deny that the complainant has retained the actual

possession, custody, and control of said pumping-engines, as stated in the sixth paragraph of the bill, or that the said complainant has retained its servant in direct, open, and exclusive charge thereof as therein averred, and, on the contrary, these defendants do aver that after Samuel R. Bullock & Co. had accepted delivery of said pumping-engines from the Holly Manufacturing Company on or about the fifteenth day of June, 1888, the said New Chester Water Company and the South Chester Water Company respectively, received said pumping-engines from Samuel R. Bullock & Co., and have since continued in the exclusive possession and use of the same, and until the filing of the bill in this cause no notice was ever given to either the New Chester Water Company or the South Chester Water Company, that the complainant the Holly Manufacturing Company had, or claimed to have any lien upon the said pumping engines or asserted by right by themselves or their servants to retain the possession and take charge of the same.

7, 8, 9, 10, 11. These defendants do not answer the averments contained in the seventh, eighth, ninth, tenth, and eleventh paragraphs of the bill, as by amendment to the plaintiffs bill it is made to appear that since the filing of the bill in this cause the complainant has elected to file a bill in the Chancery | Court of Mobile County, Ala., and has sub- (111)
mitted to the jurisdiction of that Court the question arising upon the matters in the paragraphs referred to.

12. These defendants admit the averments of the twelfth paragraph of the bill, except in so far as it is therein averred that the arrangements made between Samuel R. Bullock & Co. and W. G. Hopper & Co. were subsequent to the making of the contracts between the Holly Manufacturing Company and Samuel R. Bullock & Co., and these defendants do aver, on the contrary, that prior to the third day of August, 1887, Samuel R. Bullock & Co. made an agreement with William G. Hopper & Co. for the loan of moneys, to be used in the construction of the water works at Chester, and that in pursuance of said contract W. G. Hopper & Co., did lend to S. R. Bullock & Co., large sums of money, and these defendants beg leave to refer to the answer of said W. G. Hopper & Co. for a statement of the time when said advances were made and the amount thereof.

13. The defendants admit that W. G. Hopper & Company, upon the pledge of the stocks and bonds of the New Chester Water Company, the South Chester Water Company, the Bienville Water Supply Company, and the Greencastle Water Company large sums of money now aggregating the sum of $1,427,200.54. They also admit that at the time said advances were begun by W. G. Hopper & Co., they knew that said water-works were incomplete, but these defendants are informed and therefore aver that the advances were made by William G. Hopper & Co. from time to time as the work progressed, upon information given to both these and said William G. Hopper & Co., and the advances so made would fully complete said works in accordance with the terms of the construction contracts.

14. These defendants deny the truth of the averments contained in the fourteenth paragraph of the bill of complaint in manner and form as made, but it is true that these defendants R. D. Wood & Co. furnished
(112) to Samuel R. Bullock & Co. | large quantities of iron pipe and materials to be used in the construction of the several water-works mentioned in the bill of complaint, and it is also true that they had contracted to make additional deliveries of such iron pipe and materials. In order to secure these defendants for money due them on this account, Samuel R. Bullock & Co. had assigned to them, on the eighth day of October, 1887, the right, title and interest of Samuel R. Bullock & Co., in the stocks and bonds of the several water companies pledged with W. G. Hopper & Co. In the month of August, 1887, these defendants having furnished to Samuel R. Bullock & Co. such pipe and materials to the amount of $86,000, the said Samuel R. Bullock & Co. found themselves unable to make payment for the same, and the said Bullock having then become somewhat embarrassed, the said W. G. Hopper & Co. declined to make any further advances. In consequence of this condition of affairs, these defendants R. D. Wood & Co. and the defendants W. G. Hopper & Co., entered into negotiations whereby arrangements might be made for the completion of the said water-works in order that the securities held by the said W. G. Hopper & Co. as collateral might be made valuable, and thereby become the means out of which a fund might be produced to pay the advances made by W. G. Hopper & Co., and subject to such advances of W. G. Hopper & Co. the indebtedness due by Samuel R. Bullock & Co. to these defendants, and that the residue, if any, might inure to the benefit of the said Samuel R. Bullock & Co. For the purpose of carrying into effect the arrangement, the said W. G. Hopper & Co., Samuel R. Bullock & Co., and these defendants entered into an agreement in writing under the date of the twenty-sixth day of October, 1887, a copy of which is annexed to the plaintiff's supplemental bill as Exhibit No. 1. to which writing these defendants beg leave to refer for a true statement of the agreement, and referring to said writing these defendants do specifically deny the allegations contained in the bill of complaint, that these defendants did promise or agree to pay or cause to be paid the price or cost of the construction of the said water-works in accordance
(113) with contracts | thereto previously made by the said Samuel R. Bullock & Co., or that these defendants assumed any obligation to any person other than to W. G. Hopper & Co., to procure the completion of the said water-works at Chester, Mobile, and Greencastle, according to the specifications and clear of all liens ahead of the securities held by W. G. Hopper & Co. The contract so made with W. G. Hopper & Co. these defendants do aver that they have performed. All of said works have been completed substantially in accordance with the terms of said contracts and specifications, and cleared of all liens prior to the mortgage bonds held by W. G. Hopper & Co. These defendants answering, do further aver that when said agreement of October 26, 1887, was made, it was represented both to these defendants and the said W. G. Hopper & Co. by Samuel R. Bullock, that the sums of money to be advanced by the said W. G. Hopper & Co. would complete all of said water-works in

accordance with the terms and specifications, with the exception of the sum of about $25,000 in pipe, to be furnished in addition thereto by these defendants. That upon the faith of this representation the said W. G. Hopper & Co. agreed to advance the sum of $200,000 provided for in said contract, but to secure themselves in the premises they required of these defendants the guaranty that upon said advance being made the works should be completed. These defendants do aver that the representations made by the said Samuel R. Bullock & Co., upon which the said contract was executed, proved to be untrue. That at the time said contract was made the said Bullock had contracted liabilities to a large amount, exceeding $85,000, in the construction of said works, which was then unpaid, of which he rendered no statement to these defendants or to the said W. G. Hopper & Co. That by reason of these misrepresentations these defendants, in the performance of their contract with W. G. Hopper & Co., have expended towards the completion of the said water-works sums of money which, with the amounts due to these defendants for pipe and other materials furnished by them, amount to a sum exceeding $300,000, which sum so due to them is a charge | upon (114) the securities in the hands of the said W. G. Hopper & Co. second in lien to the claim of W. G. Hopper & Co. And these defendants do aver that they have fully performed all the obligations assumed to W. G. Hopper & Co. by the said contract, and that if upon any construction of the said contract any obligations were assumed by these defendants to Samuel R. Bullock & Co. they are relieved from the performance thereof by reason of the false and fraudulent representations made to them as an inducement to said contract, which have been hereinbefore referred to.

15. These defendants admit that by the terms of said contract the balance of the proceeds remaining after the payment of the advances and charges of W. G. Hopper & Co. were to be paid to them, but they do also aver that while by the said contract the balance of the proceeds of the securities mentioned therein were to be paid to them, such balance was to be paid to them in order that therefore these defendants might repay themselves the indebtedness due to them by Samuel R. Bullock & Co. For any surplus remaining after the payment of said indebtedness these defendants are liable to account to Samuel R. Bullock & Co.

16. These defendants deny that the construction placed upon said contract in the sixteenth paragraph of said bill is correct, and in particular they do deny that R. D. Wood & Co. in any way took the place of the said Samuel R. Bullock & Co. in the obligation to perform the contracts for the completion of the said water-works or in the reception of the benefits to be derived therefrom. The only benefit which these defendants derived from the said contract was procuring from W. G. Hopper & Co. an agreement to advance an additional sum of $200,000 for the completion of the works in the belief that by such advance the works would be completed and a value given to the securities which would enable these defendants as pledgees to obtain upon a sale thereof a sum equal to the indebtedness due to them by Samuel R. Bullock & Co., any

(115) surplus of such proceeds remaining | the property of Samuel R. Bullock & Co., who retained their place as the owners of said securities, having a full equity of redemption therein.

17. These defendants admit that W. G. Hopper & Co. did make the advance to Samuel R. Bullock & Co. provided for in said agreement last referred to, and they do aver that the aggregate of the advances so made by them upon the faith and pledge of the collateral deposited with them amounts to the sum of $1,427,200.54, and these defendants do further aver that the advances made by these defendants for the completion of the works and the amount of their claim for work done and materials furnished amount to a sum exceeding $300,000, for which, subject to the claim of W. G. Hopper & Co., the security held by said W. G. Hopper & Co. are specifically pledged. These defendants admit that a portion of the moneys advanced to Samuel R. Bullock & Co. by W. G. Hopper & Co. was obtained by the said W. G. Hopper & Co. from the defendant William Bucknell.

18. These defendants deny that at the time the said contract of October 26, 1887, was made they or the said W. G. Hopper & Co or the said William Bucknell had any knowledge of the contracts between the Holly Manufacturing Company and Samuel R. Bullock & Co. or of the provisions and effect thereof. On the contrary, these defendants do aver that their first knowledge or information which they or the said W. G. Hopper & Co. or the said William Bucknell had of the alledged contract between the Holly Manufacturing Company and Samuel R Bullock & Co. was obtained at or about the time of the filing of the bill in this cause, long after the pumping engines had been put in place at Chester and permanently attached to the freehold, and these defendants do deny that the rights which they as the holders of the bonds issued by the New Chester Water Company and the South Chester Water Company, are in anywise subordinate to the rights of the complainant as asserted in his bill of complaint, but on the contrary these defendants do aver that by the delivery of the said pumps to the water companies in consideration
(116) of the | price, which was fully paid therefor, and by the annexation of the said pumps to the real estate, they become subject to the lien of the mortgage under which the bonds held by the said W. G. Hopper & Co. and these defendants were issued, which said bonds are held by W. G. Hopper & Co. and these defendants as *bona fide* purchasers for value without notice.

19. These defendants are unable either to admit or deny the allegations of the nineteenth paragraph of the bill of complaint respecting the alleged statement by Samuel R. Bullock & Co. to the complainant with reference to the said agreement between these defendants, Samuel R. Bullock & Co., and W. G. Hopper & Co., and ask that the complainants prove the averments of the bill in relation thereto if the same be material; but these defendants do deny that the said Samuel R. Bullock & Co. had any authority or right to pledge the credit of these defendants to the

complainant for the price of said pumping engines, or that the said complainant had any right to rely upon the representations made by said Samuel R. Bullock & Co., whereby said Samuel R. Bullock & Co. may have attempted to pledge the credit of these defendants for the price of the same.

20. These defendants admit that the complainant has made demand of them for the payment of the balance claimed for said pumping engines but they do not admit that said Samuel R. Bullock & Co. concede that the position and claim of the complainant is in all respects well founded or that there is no controversy between the complainant and said Samuel R. Bullock in respect thereto. On the contrary these defendants do respectfully suggest to the court that the jurisdiction of the court has been invoked by the complainant upon the ground that the complainant is in effect a mortgage holding a lien upon property of which the said Samuel R. Bullock & Co. is mortgagor, and that the complainant has come into court invoking its equitable aid to assist the complainant with a foreclosure of said lien, or a sale of the mortgaged or liened property, to bar the title of the said mortgagor. These defendants do therefore deny the averments contained in the | twentieth paragraph of the bill, (117) that there is no controversy between the complainant and the said Samuel R. Bullock & Co., and do aver that the principal controversy in the case is between complainant and Samuel R. Bullock and William S. Mercer, trading as Samuel R. Bullock & Co., which said Samuel R. Bullock and William S. Mercer are both citizens of the State of New York, and these defendants do therefore show to your Honorable Court that although said Samuel R. Bullock and William S. Mercer have intervened as complainants, in fact the principal and fundamental controversy for the settlement of which the aid of the court is invoked is between citizens of the State of New York, and therefore they do respectfully suggest that the court is without jurisdiction in the premises; and these defendants do further show that it appears from the complainants' bill of complaint that the Farmers' Loan and Trust Company of New York, a corporation organized under the laws of, and a citizen of, the State of New York, is the trustee under the mortgages given by the New Chester Water Company and the South Chester Water Company as hereinbefore recited, and as such trustee is a necessary party defendant to these proceedings, and the said Farmers' Loan and Trust Company being a citizen of the State of New York, these defendants show that your Honorable Court is without jurisdiction in the premises.

21. These defendants admit that the advances made to Samuel R. Bullock & Co. by W. G. Hopper & Co. have not been repaid, and that said W. G. Hopper & Co. still hold and retain the said securities for the advances so made, and that subject to the advances so made by W. G. Hopper & Co. these defendants aver that they claim to have a lien upon the said securities for the sums so advanced by them, and that subject to the claims of W. G. Hopper & Co. and these defendants upon these securities the resulting title is in Samuel R. Bullock & Co. subject to such assignments or attachments as may have been charged thereon. These

defendants admit that they propose, when purchasers can be found for said securities at proper prices, to make sale of the same, but that up to the present time such purchasers have not been found.

(118) 22. These defendants admit, in answer to the averments contained in the ninth paragraph of the supplemental bill of complaint, that the Holly Manufacturing Company obtained a judgment in the Court of Common Pleas, No. 4, for the county of Philadelphia, in the sum of $67,811.44, as of September Term, 1888, No. 832.

23. These defendants do also admit that on the ninth day of November, 1888, Samuel R. Bullock & Co. signed a writing of which a true copy is recited in the tenth paragraph of said supplemental bill of complaint, and these defendants admit that said Thomas A. Perot is a clerk in their employ, and that the assignment so made to him by Samuel R. Bullock & Co. was intended as additional security to protect these defendants in claims against the said Samuel R. Bullock & Co. These defendants do also admit that said Samuel R. Bullock & Co. executed the writings referred to in the eleventh and twelfth paragraphs of the supplemental bill of complaint, copies of which writings are attached to said supplemental bill as Exhibits Nos. 2, 3, and 4; and these defendants do admit that they have accepted the said assignments made to them as additional security for the claim which they hold against said Samuel R. Bullock & Co., but these defendants do deny that the legal effect of said agreements is as charged in the fourteenth paragraph of the supplemental bill or that the said Thomas A. Perot or themselves are either in law or in equity, or on general principles, bound to assume and perform any of the duties or liabilities of the said Samuel R. Bullock & Co. under the contracts between the said water-works and the said Samuel R. Bullock & Co.

24. These defendants deny that the complainant is entitled to the relief prayed for, either in the original or in the supplemental bill of complaint, and do show to your Honorable Court that the New Chester Water Company and South Chester Water Company, being corporations organized under the general laws of the Commonwealth for the supply of water to
(119) the inhabitants of the district wherein they are located, are | corporations charged with public duties, and that by the laws of this Commonwealth the property of such corporations is not subject to lien at the suit of claimants who have supplied materials or done work for contractors engaged in the construction of said works. And these defendants do further show that even if the public character of the said water-works does not protect their plant and property from a lien of the character asserted by the complainant, it appears from the contract under which complainant furnished said pumping engines to Samuel R. Bullock & Co., and he having accepted the said engines delivered the same to the New Chester Water Company and the South Chester Water Company in pursuance of the contract for the construction of their works, and that the said engines having become physically attached to the real estate of

said water companies became subject to the lien of the mortgages executed by said companies, and that these defendants and W. G. Hopper & Co. as the holders of the bonds issued under said mortgages are entitled as against the complainant who asserts a secret lien for unpaid purchase-money to the protection afforded by law to *bona fide* purchasers for value without notice. And these defendants do further deny that in so far as by the said original and supplemental bill of complaint the complainant asks to enforce against these defendants a contractual liability for the amount of the unpaid balance due to them by Samuel R. Bullock & Co., that the relief claimed by said complainants should be granted, because these defendants do deny that they at any time assumed any contractual relation, directly or indirectly, with the said complainant upon which said claim may be maintained, but these defendants do also aver that if upon the matters alleged the complainant is entitled to maintain any claim, the claim is one to be asserted in a court of law where a full and adequate remedy is afforded to maintain an action if there be any right in the complainant to maintain the same.

And these defendants deny all and all manner of unlawful combination and confederacy wherewith he is by the said bill | charged, without this, (120) that there is any other matter, cause, or thing in the said complainants' said bill of complaint material or necessary for these defendants to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided, or denied, is true to the knowledge or belief of these defendants; all which matters and things these defendants are ready and willing to aver, maintain, and prove, as this Honorable Court shall direct; and humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

RICHARD C. DALE,
Atty. for R. D. Wood & Co.

EASTERN DISTRICT OF PENNSYLVANIA, *ss.*

Walter Wood, being duly affirmed according to law, doth depose and say: I am one of the defendants; I have read the foregoing answer, the statements therein contained so far as made of my own knowledge are true, and so far as made upon information are believed to be true.

Affirmed and subscribed to, before me, this 24th day of May, 1889.

WALTER WOOD.

SOMERS S. PEARSON, *Notary Public.*
[SEAL.]

(121) UNITED STATES CIRCUIT COURT,

Endorsed.

THE HOLLY MANUFACTURING CO.		In Equity.
vs.		October Sessions, 1888.
THE NEW CHESTER WATER CO., *et al.*		No. 3.

Answer of Richard Wood & Others, trading as R. D. Wood & Co.

RICHARD C. DALE,
SAMUEL DICKSON,
For R. D. WOOD & CO.

Filed June 3, 1889.

SAMUEL BELL,
Clerk.

(122) ANSWER OF THE NEW CHESTER WATER CO. AND SOUTH CHESTER WATER CO

UNITED STATES CIRCUIT COURT.

THE HOLLY MANUFACTURING COMPANY		
vs.		October Sessions, 1888.
THE NEW CHESTER WATER COMPANY, THE SOUTH CHESTER WATER COMPANY, *et al.*		No. 3.

To the Honorable the Judges of the Circuit Court of the United States for the Eastern District of Pennsylvania:

The answer of The New Chester Water Company and The South Chester Water Company to the original and supplemental bills of complaint as amended of The Holly Manufacturing Company.

These defendants, now and at all times hereafter saving to themselves any and all manner of benefit or advantage of exception or otherwise that can or may be had or taken to the many errors, uncertainties, and

imperfections in the said bill contained, for answer thereto, or to so much thereof as these defendants are advised it is material or necessary for them to make answer to, answering say:—

1. These defendants admit that the plaintiff Holly Manufacturing Company is a corporation organized under the laws of the State of New York, and a citizen of said State, and that | the plaintiffs, Samuel R. Bul- (123)
lock and William S. Mercer, are citizens of the State of New York, and that the defendants, Richard Wood, George Wood, Walter Wood and Stuart Wood, trading as R. D. Wood & Co., William G. Hopper and Harry S. Hopper, trading, etc., William Bucknell and Thomas A. Perrot, are citizens of the State of Pennsylvania; and these answering defendants are organized under and citizens of the State of Pennsylvania; that these answering defendants have no knowledge of the character or location of the said Bienville Water Supply Company; and if answer thereto is deemed material, ask that the complainant may be required to make proof of the same.

2. These answering defendants admit that they are corporations organized for the purpose of furnishing to the inhabitants of Chester and vicinity in the County of Delaware and State of Pennsylvania, water for domestic use and other purposes, and that they are the owners and in possession of certain real estate in Chester and other parts of the said county, occupied for the purposes of their said business; and that upon a portion of the said real estate located in the said city there has been erected and now stands a pumping-engine house; these answering defendants also admit that they did severally on the twenty-first day of March, 1887, enter into an agreement with Samuel R. Bullock & Co., whereby the said Samuel R. Bullock & Co. did agree with these answering defendants respectively to fully construct and equip said water works: and to deliver the same in running order on or before the first day of January. 1888.

3. These answering defendants admit that mortgages were made respectively as follows: By the said The New Chester Water Company bearing date the first day of April, 1887, to secure an issue of bonds to the amount of $500,000; and by the said The South Chester Water Company a mortgage bearing the same date, to secure an issue of bonds to the amount | of $300,000; and both of said mortgages are recorded in (124)
the office for recording deeds in Delaware County, and that the Farmers' Loan and Trust Company of New York, a corporation existing under the laws of and a citizen of the State of New York, is the mortgagee named in each of said mortgages as trustee for the holders of bonds issued thereunder.

These answering defendants admit that they did respectively issue their bonds in the amounts above stated, that is to say: The said The New Chester Water Company in the amount of $500,000; and the said The South Chester Water Company in the amount of $300,000, and did deliver the said bonds to Samuel R. Bullock & Co. in pursuance of the terms of the contract hereinbefore recited; and at the times and in the proportions and according to the estimates provided and specified in the

said contract; and these defendants severally deny that the said bonds or mortgages or any of them or any part of the capital stock of these defendants were issued or delivered to said Samuel R. Bullock & Co. or any other person or persons whomsoever for any other purpose except to comply with the terms of the said contract.

These answering defendants aver that they have no knowledge of the contract between the said Samuel R. Bullock & Co. and the said Holly Manufacturing Company referred to in the third paragraph of the bill, and shown as exhibit "A" attached to the said bill, other than the information and knowledge disclosed by the said bill and exhibit; and if material to the cause of these answering defendants they ask that the complainant may be required to make proof of the same.

4. These defendants admit that the plaintiffs the Holly Manufacturing Company did construct and erect the two pumping engines mentioned in said contract, and they do aver that the work of construction and erecting the same was completed prior to the fifteenth day of June, 1888, and
(125) that the work of construction having been completed, the said | pumping engines were accepted by Samuel R. Bullock & Co. who delivered possession of the said engines to The New Chester Water Company and The South Chester Water Company, in performance of the contract between the said Samuel R. Bullock & Co. and the said water companies of March 21, 1887, and hereinbefore recited, and the said water companies paid the said Samuel R. Bullock & Co. the full consideration therefor without any notice of the alleged claim of the complainant, and since the acceptance of the pumping engines by Samuel R. Bullock & Co. and their delivery to The New Chester Water Company and The South Chester Water Company, these defendants aver that they have had the full use and enjoyment of the same and have been supplying the citizens of Chester, South Chester, the borough of Upland and other portions of territory adjacent with water pumped by said engines for manufacturing, mechanical and domestic use, and by contract with the municipal authorities of the said city of Chester and the said borough of South Chester, for the purpose of extinguishing fires and cleaning the streets; and that the inhabitants and business establishments of the said localities depend largely and in a very great majority of instances solely upon the water supply furnished by the works of these defendants for the purposes aforesaid.

These defendants aver further that the said pumps and machinery attached thereto are of large size and great weight; that they were annexed by heavy iron bolts into foundations of solid masonry built by the said Samuel R. Bullock & Co. for these defendants under the contracts aforesaid; that the said pump house is structure built of solid brick and stone with roof of slate; and that the walls thereof were erected and the said house built over the pumps and machinery after the same had been set in place on the said foundations; and that any attempt to remove said pumps and machinery would work irreparable damage to the building
(126) and other property | of these defendants; and would further cause public inconvenience and injury to health, and danger to property by reason of

depriving the inhabitants of the said localities of the supply of water for the purpose aforesaid.

5. These defendants have no knowledge of the payments made by Samuel R. Bullock & Co. to the Holly Manufacturing Company and ask that the complainant the Holly Manufacturing Company prove what balance, if any, is due it by Samuel R. Bullock & Co. if the same is material.

6. The defendants have no knowledge of the terms of the said contract referred to in paragraph six except as the same are set out in the said bill and exhibit, and beg leave to refer to the same for a correct statement of its terms and conditions, if the same should be deemed material to the cause of these defendants; but they do deny that the complainant has retained the actual possession, custody and control of the said pumping engines as stated in the sixth paragraph of the bill, or that the said complainant has retained its servant in direct, open and exclusive charge thereof as therein averred, and, on the contrary, these defendants do aver that after Samuel R. Bullock & Co. had accepted delivery of said pumping engines from the Holly Manufacturing Company, on or about the fifteenth day of June, 1888, the said New Chester Water Company and The South Chester Water Company respectively, received said pumping engines from Samuel R. Bullock & Co., and since that time the said engines and appurtenances have continued in the possession and use of these defendants in connection with boilers and other machinery the property of the said defendants, in the manner and for the purpose specifically stated heretofore in the answer to paragraph four of complainant's bill; and they further aver that the delivery of the said engines and appurtenances, and the payment therefor to the said Samuel R. Bullock & Co. was made without notice of any alleged claim or lien against or upon the same by the com | plainant as heretofore stated in the answer to paragraph four of complainant's bill; and these defendants further aver that no notice of any such claim or lien was received by them or either of them until on or about the date of the filing of the original bill of complaint in this case. (127)

7, 8, 9, 10, 11. These defendants do not answer any of the averments contained in the seventh, eighth, ninth, tenth and eleventh paragraphs of the original bill or any amendment made to the said paragraphs or any of them, for the reasons heretofore stated that neither of these defendants have any knowledge of the nature, character or functions of the said Bienville Water Supply Company, or of the contracts or relations of the said Samuel R. Bullock & Co., or of any of the said defendants therewith or thereto; and if answer to the same or any part thereof is deemed material to the cause of these defendants, they ask that the complainant may be required to made proof of the same.

12, 13, 14, 15, 16, 17. These defendants do not answer any of the averments contained in the twelfth, thirteenth, fourteenth, fifteenth, sixteenth and seventeenth paragraphs of the original bill, or any amend-

ment made to the said paragraphs or any of them, for the reason that neither of these defendants have any knowledge of the statements therein contained, or the averments made, or any of them, and if answer to the same or any part thereof is deemed material to the cause of these defendants or either of them, they ask that the complainant may be required to make proof of the same.

18. These defendants deny that at the time the said pumping engines were delivered to these defendants, and at the time the said Samuel R. Bullock & Co. was paid the consideration moneys under the said contract, by these defendants in the proportions at the times, and according to the estimates in this answer hereinbefore specifically set out—that these de-
(128) fendants or either of them had notice of any contract existing | between the said Samnel R. Bullock & Co. and the said complainant relating to the said pumping engines or the terms thereof or any alleged claim or lien of the said complainant respecting the same; and on the contrary they aver that no such alleged claim or lien could defeat or impair the interest and property of the said defendants or either of them in the said pumping engines; and that the delivery of the same to these defendants, the annexation of them to the freehold, and the payment therefor by these defendants to Samuel R. Bullock & Co. under the said contract as hereinbefore specifically stated in this answer, vested in these defendants a complete and indefeasible title and property in the said engines clear of any alleged claim or lien of the said complainant; and they further aver and repeat that the first knowledge these defendants or either of them received of the alleged claim or lien of the said complainant was received at or about the time of the filing of the said original bill in this cause, long after the pumping engines had been put in place at Chester, and permanently attached to the freehold, and the consideration paid therefor by these defendants as in this answer heretobefore in this answer specifically stated.

19, 20, 21. These defendants have no knowledge as to the correctness of the statements contained in the nineteenth, twentieth and twenty-first paragraphs of the original bill, or any supplements or amendments to the same or any part thereof; except that these defendants deny that any demand was made by the said complainant on them or either of them for the payment of any part of the moneys alleged to be due by the said Samuel R. Bullock & Co, to them, and these defendants further deny that they ever admitted the correctness of the said claim of the complainant against the said Samuel R. Bullock & Co., or of any claim or lien of the said complainant against these defendants or any of them or against any part of their property; but on the contrary have consistently
(129) denied | the right of said complainants to maintain such claim or lien; and these defendants further showing to this court that the said complainant, the said Samuel R. Bullock & Co. and the said Farmers' Loan and Trust Company, Trustee, are all citizens of the State of New York, and that the principal controversy arising in this case is between the said complainant and the said Samuel R. Bullock & Co., these defendants respectively aver that this court is without jurisdiction in the premises.

22. These defendants admit in answer to the averments contained in the ninth paragraph of the supplemental bill of complaint that the Holly Manufacturing Company obtained a judgment in the Court of Common Pleas, No. 4, for the County of Philadelphia in the sum of $67,811.44, as of September Term, 1888, No. 832.

23. These defendants do also admit that on the ninth day of November, 1888, Samuel R. Bullock & Co. signed a writing of which a true copy is recited in the tenth paragraph of said supplemental bill of complaint; but they deny any knowledge of the relations of the said Thomas A. Perot to the said R. D. Wood & Co. or any of the said defendants; and if answer on that point is deemed material, they ask that the complainant may be required to make proof of the same; and they further deny any knowledge of the object and purpose of the said assignment; and if answer thereon is deemed material, they ask that the complainant may be required to make proof of the same.

24. The defendants admit that they received notice of an assignment of which the paper referred in paragraph twelve of the supplemental bill of complaint and shown in exhibit No. 3 annexed to the same; but they deny any knowledge of any of the other assignments described in the said paragraphs or either of them; and if answer therein is deemed material, they ask that the complainant may be required to make proof of the same

25. These defendants deny any knowledge of the said Thomas A. (130)
Perot and that he has in any manner assumed any control over any of the property of the said defendants or has taken possession of the same, or has in any way been known to, or connected with the defendants; and they admit that Walter Wood of the firm of R. D. Wood & Co. has been elected a member of the board of directors of the said companies, Chairman of the Executive Committee of the same, and Treasurer of each of these defendants; but they deny any knowledge of control of the property of these defendants or of any relation occupied by the said R. D. Wood & Co. or any member of the said firm except in so far as the same is exercised by the said Walter Wood in the official capacities hereinabove stated.

26. These defendants deny that the legal effect of any of the said assignments or agreements or any of them is as charged in the fourteenth paragraph of the supplemental bill as far as the same relates to these defendants or either of them or to their indefeasible right, title and property in the said pumping engines, free and clear of any alleged claim or title of the said complainant.

These defendants deny that the complainant is entitled to the relief prayed for, either in the original or in the supplemental bill of complaint, and do show to your Honorable Court that The New Chester Water Company and South Chester Water Company, being corporations organized under the general laws of the Commonwealth for the supply of water to the inhabitants of the district wherein they are located, are corporations

charged with public duties, and that by the laws of this Commonwealth the property of such corporation is not subject to lien at the suit of claimants who have supplied materials or done work for contractors engaged in
(131) the construction | of said works. And these defendants do further show that even if the public character of the said water works does not protect their plant and property from a lien of the character asserted by the complainant, it appears from the contract under which complainant furnished said pumping engines to Samuel R. Bullock & Co., that the title to said engines passed upon the delivery thereof to the said Samuel R. Bullock & Co., and that having accepted the said engines delivered the same to The New Chester Water Company and the South Chester Water Company in pursuance of the contract for the construction of their works, and that the said engines having become physically attached to the real estate of said water companies, and having become an essential part of the system for the supply of water to the public as hereinbefore particularly described, that the said pumping engines became the absolute property of these defendants; and they are entitled to the protection afforded by law to bona fide purchasers without notice as against any lien or claim of the plaintiff; but these defendants do also aver that if upon the matters alleged the complainant is entitled to maintain any claim, the claim is one to be asserted in a court of law where a full and adequate remedy is afforded to maintain an action if there be any right in the complainant to maintain the same.

And these defendants deny all and all manner of unlawful combination and confederacy wherewith they are by the said bill charged, without this, that there is any other matter, cause, or thing in the said complainant's said bill of complaint material or necessary for these defendants to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided, or denied, is true to the knowledge or belief of these defendants; all which matters and things these defendants are ready and willing to aver, maintain, and prove, as this Honorable
(132) Court shall direct; and humbly pray | to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

THE NEW CHESTER WATER COMPANY
THE SOUTH CHESTER WATER COMPANY,
WILLIAM WARD,
Solicitor.

EASTERN DISTRICT OF PENNSYLVANIA, *ss.*

J. L. Forwood, being duly affirmed according to law, doth depose and say: I am the President of The New Chester Water Company and The South Chester Water Company, and I have read the foregoing answer. The statements therein contained so far as made of my own knowledge are true, and so far as made upon information are believed to be true.

Affirmed and subscribed to, before me, this first day of June, 1889.

HIRAM HATHAWAY, JR., [L. S.]
City Recorder.

J. L. FORWOOD,
President.

Endorsed.

U. S. CIRCUIT COURT. (133)

THE HOLLY MANUFACTURING COMPANY
vs.
THE NEW CHESTER WATER COMPANY, *et al.*

In Equity.

October Sessions, 1888.

No. 3.

Answer of the New Chester Water Company and the South Chester Water Company.

WILLIAM WARD,
Solicitor.

Filed June 3, 1889.

SAMUEL BELL,
Clerk, etc.

(134) ANSWER OF WM. G. HOPPER AND HARRY S. HOPPER, TRADING AS W. G. HOPPER AND COMPANY AND WM. BUCKNELL.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING COMPANY	In Equity.
vs.	October Sessions, 1888.
THE NEW CHESTER WATER CO., *et al.*	No. 3.

The answer of William G. Hopper and Harry S. Hopper, trading as W, G. Hopper & Co., and William Bucknell to the bill and supplemental bill of the complainant.

First We admit that the New Chester Water Company and the South Chester Water Company are corporations organized under the laws of the State of Pennsylvania for the purpose of furnishing to the inhabitants of the City of Chester, in the County of Delaware, in said State, water
(135) for domestic and other purposes, and that as such the New | Chester Water Company is the owner and in the possession of and occupies certain real estate in said City of Chester for the use and purposes of its said business, upon which there has been erected and now stands a pumping-engine house for the purposes of said business. We admit that the said New Chester Water Company and the South Chester Water Company for the purpose of furnishing water to the inhabitants of Chester, and thus to carry into effect the object of its organization, did on or about the twenty-first day of March, 1887, enter into a contract with the said Samuel R. Bullock & Co. to construct ready for operation a complete system of water works in said City of Chester, and as a part of said system to erect and construct the necessary engines and pump-house, and to place thereon the necessary pumping machinery, which said real estate plant and machinery was to be clear of all incumbrance of any kind whatever, except the mortgages hereafter mentioned executed by the said New Chester Water Company and South Chester Water Company, and in consideration that the said Samuel R. Bullock & Co. would furnish, construct and deliver the said completed system of water works ready for operation and clear of all incumbrances as aforesaid, the said New Chester Water Company and the South Chester Water Company did agree to pay to said Samuel R. Bullock & Co. a certain sum in the bonds and stock of the New Chester Water Company and the South Chester Water Company, which the said Samuel R. Bullock & Co. agreed

to accept in full payment for said plant aud completed system of water works.

Second. We do not admit the allegation of the second paragraph of said bill as therein stated. We do admit that the New Chester Water Company, and the South Chester Water Company, for the purpose of providing themselves with sufficient means to pay for the purchase of the South Ward Water Works, in the City of Chester, and for the construction of a complete system of water works to | supply water to the inhabitants of the City of Chester, did on the (136) first day of April, 1887, each severally execute, and deliver to the Farmers' Loan and Trust Company of New York, a mortgage upon all its real estate, franchises and other property then acquired or thereinafter to be acquired, and the rents, issues and profits to be derived therefrom, in trust to secure the holders of bonds to be issued by said companies respectively: that is to say, by the said New Chester Water Company in the sum of $500,000, and by the said South Chester Water Company in the sum of $300,000, and the said companies did thereupon respectively make and execute their bonds in the sums as above mentioned, and that on the twenty-first day of March, 1887, the said New Chester Water Company and South Chester Water Company entered into a contract with Samuel R. Bullock & Co. for the construction of a complete system of water works, and from time to time thereafter as required by the terms of said contract, did deliver to the said Samuel R. Bullock & Co. in payment for the work and materials used by them in the completion of said works, $500,000 of the bonds of New Chester Water Company and $300,000 of the bonds of South Chester Water Company, together with certificates for certain shares of full paid stock in the said water companies. Andwe aver that the said Samuel R. Bullock & Co. in order to raise the necessary money to pay for the labor and materials required by their contract to construct and entirely complete said system of water works ready for operation, agreed to pledge the said bonds and stock to the said William G. Hopper & Co., who, relying on the security of said bonds and stock, and on the statement of the said Samuel R. Bullock & Co. that the said mortgages securing said bonds were a first lien on said water works, advanced and paid over from time to time, prior to October 26, 1887, to the said Samuel R. Bullock & Co. the sum of $609,635. And the said Samuel R. Bullock & Co. did | further agree with the said W. (137) G. Hopper & Co, that the said bonds and stock should be held by them as security, as well for the moneys advanced on them as for the moneys advanced by the said W. G. Hopper & Co. to the said Samuel R. Bullock & Co. upon other bonds and stock of other water companies, the total amount of which advances made by the said W. G. Hopper & Co. between the twenty-first day of February, 1887, and the second day of February, 1888, was $1,427,200.54, and that the said advances were all made without any notice whatever of the present claim of the complainant to have a lien on any part of said water works, for the complete construction of which the said two water companies had paid the said Samuel R. Bullock & Co. in full.

Third. We have no knowledge as to the correctness of the statements contained in the third paragraph of said bill, and if material, ask that the complainant may be required to make proof of the same.

Fourth. We believe it to be true that two pumping-engines have been constructed and affixed to the system of the said water companies, and that both the New Chester Water Company and South Chester Water Company, and through them the City of Chester and the inhabitants thereof, are now supplied with water pumped by said engines, but we have no knowledge of the other statements contained in the fourth paragraph of said bill, and if material, ask that the complainant may be required to make proof of the same.

Fifth. We have no knowledge of the statements contained in the fifth paragraph of said bill, and if material, ask what complaint may be required to make proof of the same.

Sixth. We have no knowledge of the statements contained in the sixth paragraph of said bill, and if material ask that complainant may be required to make proof of the same, but we aver that no notice was given to us by any
(138) one of the claim of the complainant to have a lien on said engines, by virtue of its contract with Samuel R. Bullock & Co., until some time in the summer of 1888, while all of the advances made by us to the said Samuel R. Bullock & Co., on the security of said bonds and stocks pledged to us as aforesaid, were made prior to the third day of February, 1888. We are informed and believe and therefore aver that neither the said New Chester Water Company or the South Chester Water Company had any notice of the claim of the complainant to have a lien on said engines by virtue of its contract with Samuel R. Bullock & Co., and in good faith and without notice of such alleged lien paid over to Samuel R. Bullock & Co. the full consideration for the complete construction of said water works according to the contract of the said Samuel R. Bullock & Co. with said water companies, and on like information and belief we aver that it is not true that the complainant has retained or now retains the actual possession, custody and control of said engines and their connections, but that since some time prior to the first day of July, 1888, the said water companies have been in the actual possession of the whole system, including the said pumping-engines and connections, and have been using the same and supplying the inhabitants of the City of Chester with water from the same, and we aver that the said pumping-engines and their connections are permanently affixed to the real estate of the said water companies, and are a necessary part of the motive power of said water works, and that they are necessary to the existence of said water works as such, and that without such pumping-engines the said water works cannot be operated, or water supplied to the inhabitants of the City of Chester; and we further aver that any alleged lien on said pumping-engines and their connections, which might result in a sale or removal of such pumping-engines, would not only result in great loss to these defendants as *bona fide* purchasers of said bonds without notice of

any such alleged | lien, but by the stoppage of the supply of water to (139)
the public, who have rights in the matter, would result in great harm and inconvenience to the city and citizens of Chester, and also to the said water companies, who have paid the said Samuel R. Bullock & Co. in full for all of the work and materials furnished by them, including these pumping-engines and their connections.

Seventh. We are advised, that inasmuch as the complainant, since the filing of this Bill, has filed a Bill in the Chancery Court of Mobile County, Alabama, against these respondents making the same identical charges as those contained in the 7th, 8th, 9th, 10th and 11th paragraphs of this Bill, and has required these respondents to answer the same, which answer has been duly filed and the said cause is there pending, that these respondents are, therefore, not bound to answer the charges contained in the above-mentioned paragraphs.

Eighth. It is not true as stated in the twelfth paragraph of the said Bill that the contract of the complainant with Samuel R. Bullock & Co. for the construction of said engines, pumps and connections, were made before the said W. G. Hopper & Co. had entered into a contract to make advances to Samuel R. Bullock & Co. on the security of the bonds and stock of said Water Companies. The agreement of the said W. G. Hopper & Co. with Samuel R. Bullock & Co. to make said advances, was made prior to the thirteenth day of June, 1887. It is true that by agreement with Samuel R. Bullock & Co. the said W. G. Hopper & Co. were given the right to hold and retain all of said bonds and stocks as security until their entire advances, as well on the bonds and stock of said Water Companies, as on the bonds and stock of other Water Companies, and all their interest, cost and charges thereon should be paid in full.

Ninth. We do not admit the truth of the allegations contained in the thirteenth paragraph of said bill. We | do admit that up to October 26th, (140)
1887, the said W. G. Hopper & Co. had advanced to the said Samuel R. Bullock & Co. on the bonds and stocks of the Bienville Water Supply Company the sum of $459,360, an excess of $24,360 over the sum agreed to be advanced on said bonds and stocks until final completion and acceptance of the works by the Company, clear of all liens or incumbrances other than first mortgage bonds, and on the bonds and stocks of the New Chester Water Company and the South Chester Water Company the sum of $609,635, an excess of $48,635 over the sum agreed to be advanced on said bonds and stock until the final completion and acceptance of the works by the Company, clear of all liens or incumbrances other than the first mortgage bonds, and that at that time no other advances were required to be made by them to Samuel R. Bullock & Co., by the terms of their agreement as aforesaid until the respective water works were entirely completed clear of all liens and incumbrances other than the said mortgage bonds, ready for operation, inspected by the engineer of said Water Companies respectively, and accepted by said Companies. It is therefore not true as stated in said

thirteenth paragraph that the said W. G. Hopper & Co. declined to make further advances, because there were no further advances due by them until said works were completed as above stated.

Tenth. We do not admit the truth of the allegations contained in the fourteenth paragraph of said Bill as therein stated. We admit that the defendants R. D. Wood & Co., on and before October, 1887, had furnished to said Samuel R. Bullock & Co. large quantities of iron pipe and other materials to be used in the construction of the said several water works, on account of which the said Samuel R. Bullock & Co. were indebted to them in a large amount, but how much we do not know, that the said Samuel R. Bullock & Co. represented to us that if the sum of
(141) two hundred thousand dollars could be procured, it would | enable them to completely finish the construction of said water works so that they could turn them over to said Water Companies ready for operation, and they requested the said W. G. Hopper & Co., in lieu of the advances then yet to be made by them payable on the final completion of said water works, to advance the said sum of $200,000 from time to time as needed, and on the said R. D. Wood & Co. agreeing to join with said Samuel R. Bullock & Co. in certain covenants for the protection of the said W. G. Hopper & Co. the said three parties entered into the agreement of October 26th, 1887, a substantial copy of which is annexed to the Supplemental Bill filed by the complainant in this case, to which these defendants beg leave to refer as the best evidence of said agreement and of the rights and liabilities thereunder of the parties thereto.

Eleventh. We do not admit the truth of the allegation as stated in the fifteenth and sixteenth paragraphs of said Bill, but beg leave to refer to said agreement of October 26th, 1887, as the best evidence of the obligations assumed by the parties thereto.

Twelfth. We admit that the said W. G. Hopper & Co. did, from time to time, between the twenty-sixth day of October, 1887, and the third day of February, 1888, advance to the said Samuel R. Bullock & Co. the said sum of two hundred thousand dollars, as stated in the seventeenth paragraph of said bill, which said money was applied by the said R. D. Wood & Co. in completing the said several water works in accordance with the terms of the agreement of October 26th, 1887, but we aver that the total amount of our advances up to February 3d, 1888, on the said bonds and stocks and other bonds and stocks, all of which were held for the entire indebtedness of Samuel R. Bullock & Co. to us was $1,427,200.54, and all this money was furnished by the said William Bucknell for whom the said W. G. Hopper & Co. were acting as agents.

Thirteenth. We deny the truth of the allegations contained in the
(142) eighteenth paragraph of said Bill, and aver | that we had no notice whatever of the contracts between the complainant and the said Samuel R. Bullock & Co. or of the provisions or effect thereof, at the time the said advances were made by the said W. G. Hopper & Co., or at the

time the agreement of October 26th, 1887, was made, or at any time thereafter until sometime in the summer of 1888, and we therefore deny that our rights are subject and subordinate to the alleged lien of the complainant, and we claim all the rights of bona fide purchasers for value without notice in the premises.

Fourteenth. We have no knowledge of the allegations contained in the nineteenth paragraph of said Bill, and if material, ask that complainant may be required to make proof of the same.

Fifteenth. We deny that the said W. G. Hopper & Co. have been asked to pay the claim of the complainant as stated in the twentieth paragraph of said bill, and we admit that we have not paid the same, and deny that we are under any obligation to do so. Of the other allegations in said paragraph we have no knowledge, and if material ask that the complainant may be required to make proof of the same.

Sixteenth. We admit that we have not been repaid the advances which we have made to the said Samuel R. Bullock & Co. and that by the filing of this Bill we have been prevented from negotiating or selling the said securities, whereby we have sustained great loss and inconvenience.

The answer of said defendants, W. G. Hopper & Co. and William Bucknell, to the Supplemental Bill of Complaint:

First. We admit that the statements contained in paragraphs 1st, 2d, 3d, 4th, 5th, 6th and 7th are recitals of averments in the original Bill filed by complainant, but we do not admit the truth of the averments thus recited, and beg that our answer made to the averments in the original bill may stand | as an answer to the recital of those averments in (143)
the Supplemental Bill.

Second. We admit that the exhibit No. 1, referred to in the eighth paragraph of the Supplemental Bill, is a substantial copy of the agreement of October 26th, 1887, between W. G. Hopper & Co., Samuel R. Bullock & Co., and R. D. Wood & Co.

Third. We have been informed that certain assignments were made, but have no knowledge of the truth of the allegations contained in the 9th, 10th, 11th, 12th, and 13th paragraphs of said Supplemental Bill, and if material ask that complainant may make proof of the same.

Fourth. As to the averment contained in the fourteenth paragraph of said Supplemental Bill, as all of said agreements therein referred to are alleged to be in writing, they are the best evidence of the rights and obligations arising thereunder of the parties thereto, and we respectfully submit the same to the judgment of this Court.

Fifth. We therefore claim to hold all of the said bonds and stocks as *bona fide* purchasers for value without notice of the alleged lien of the complainant, and pray that the said Bill may be dismissed with costs.

W. G. HOPPER,
H. S. HOPPER,
W. G. HOPPER & CO.,
WILLIAM BUCKNELL.

WILLIAM C. HAINES, *Solicitor.*

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(144) H. S. Hopper being duly affirmed, says: That the statements contained in the foregoing answer to the bill and supplemental bill of complainant, so far as they are made on the knowledge of the answering defendants, are true; and so far as they are made on the information of others, he believes them to be true.

Affirmed and subscribed before me this 28th day of May, 1889.

H. S. HOPPER.

H. E. Garsed a Notary Public of the Commonwealth of Pennsylvania in and for the City of Philadelphia.

THE HOLLY MANUFACTURING CO.,	U. S. C. C.
vs.	October Term, 1888.
THE NEW CHESTER WATER CO., *et al.*	No. 3.

Answer of W. G. Hopper & Co. and William Bucknell.

WILLIAM C. HARRIS
for Respondents.

Filed June 3, 1889.

SAMUEL BELL,
Clerk.

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(145) *Answer of Thomas A. Perot.*

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING CO.,	In Equity.
vs.	October Sessions, 1888.
THE NEW CHESTER WATER COMPANY.	No. 3.

The separate answer of Thomas A. Perot.

The defendant, Thomas A. Perot for answer to the supplemental bill of complaint of the Holly Manufacturing Company, respectfully shows:

First. That he admits the citizenship of the parties as stated in the said supplemental bill.

Second. That he has no personal knowledge of the things mentioned in said supplemental bill of complaint with the exception of the statement contained in the tenth paragraph of said supplemental bill, in which it is stated that on the 9th day of November, 1888, the said Samuel R. Bullock & Company executed a writing of which a copy is therein given. This defendant admits that such a writing was executed on said date by the said Samuel R. Bullock & Company to said Thomas A. Perot and that he, the said Thomas A. Perot is a clerk in the office of the defendants, R. D. Wood & Company, and that the assignment so made to this defendant was made to him with the purpose | that any benefit arising (146) therefrom should enure to the benefit of said R. D. Wood & Company, but this defendant states that up to the present time no benefits have accrued to him or any moneys or other valuable things been received by him in pursuance of the terms of said assignment.

THOMAS A. PEROT.

CITY AND COUNTY OF PHILADELPHIA, *ss.*

Thomas A. Perot being duly affirmed according to law doth depose and say that the statements contained in the foregoing answer are just and true as he verily believes.

THOMAS A. PEROT.

Affirmed and subscribed to before me this 3d day of June, 1889.

A. P. RUTHERFORD,

[SEAL] *Notary Public.*

Endorsed. No. 3. October Session, 1888. U. S. C. Ct. The Holly Manufacturing Co., *vs.* The New Chester Water Company. Answer of Thomas A. Perot.

DALE.

Filed June 3, 1889.

SAMUEL BELL,

Clerk.

(147) *Replication to Answer of R. D. Wood & Co.*

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANFG CO., *et al.*	In Equity.
vs.	October Term, 1888.
THE NEW CHESTER WATER CO., *et al.*	No. 3.

The replication of the plaintiff to the answer of the said defendants Richard Wood, George Wood, Walter Wood, and Stuart Wood, trading as R. D. Wood & Co. and William Bucknell.

The plaintiff saving and reserving all exceptions, etc., join issue on the matters alleged in the said answer.

R. L. ASHHURST,
Solicitor for Plaintiff.

To R. C. DALE, ESQ.,

Solicitor for said defendant.

DEAR SIR:—Please notice that replication of which the above is a copy has this day been filed.

R. L. ASHHURST,
Solicitor for plaintiff.

Endorsed. U. S. Circuit Court of Eastern District of Pennsylvania. Oct. Session, 1888. No. 3. In Equity. The Holly Manufacturing Co., *vs.* The New Chester Water Co., *et al.*

R. L. ASHHURST.

Filed June 22, 1889.

SAMUEL BELL,
Clerk.

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(148) *Replication to Answer of Water Companies.*

IN THE CIRCUIT COURT OF THE UNITED STATES IN AND FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING CO., etc.	In Equity.
vs.	October Sessions, 1888.
THE NEW CHESTER WATER CO., *et al.*	No. 3.

The replication of the plaintiff to the answer of the said defendants, The New Chester Water Company and The South Chester Water Company.

The plaintiff, saving and reserving all exceptions, etc., join issue on the matters alleged in the said answer.

R. L. ASHHURST,

Solicitor for plaintiff.

To Esq.,

Solicitor for said defendant.

Dear Sir:—Please notice that replication of which the above is a copy has this day been filed.

R. L. ASHHURST,

Solicitor for plaintiff.

Endorsed: Circuit Court United States, Eastern District of Pennsylvania. October Sessions, 1888. No. 3. The Holly Manufacturing Co. *vs.* The New Chester Water Co., *et al.* Replication.

R. L. ASHHURST.

Filed June 22, 1889.

SAMUEL BELL,

Clerk, etc.

Replication to Answer of Hopper, et al. **(149)**

IN THE CIRCUIT COURT OF THE UNITED STATES IN AND FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

The Holly Manufacturing Co., etc.	In Equity.
vs.	October Sessions, 1888.
The New Chester Water Co., *et al.*	No. 3.

The replication of the plaintiff to the answer of the said defendant William G. Hopper and Harry S. Hopper, trading as William G. Hopper & Co.

The plaintiff, saving and reserving all exceptions, etc., join issue on the matters alleged in the said answer.

R. L. ASHHURST,

Of solicitors for plaintiff.

To H. L. HANNIS, ESQ.,

Solicitor for said defendant.

DEAR SIR:—Please notice that replication of which the above is a copy has this day been filed.

R. L. ASHHURST,

Solicitor for plaintiff.

Endorsed: Circuit Court United States, Eastern District of Pennsylvania. October Sessions, 1888. No. 3. In Equity. The Holly Manufacturing Company *vs.* The New Chester Water Co., *et al.* Replication.

R. L. ASHURST.

Filed June 22, 1889.

SAMUEL BELL,
Clerk, etc.

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(150) *Replication to answer of Perot.*

IN THE CIRCUIT COURT OF THE UNITED STATES IN AND FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

THE HOLLY MANUFACTURING CO., etc.	In Equity.
vs.	October Sessions, 1888.
THE NEW CHESTER WATER CO., *et al.*	No. 3.

The replication of the plaintiff to the answer of the said defendant.

THOMAS A. PEROT.

The plaintiff, saving and reserving all exceptions, etc., join issue on the matters alleged in the said answer.

R. L. ASHHURST,

Solicitor for plaintiff.

To Esq.,

Solicitor for said defendant,

DEAR SIR:—Please notice that replication of which the above is a copy has this day been filed.

R. L. ASHHURST,

Solicitor for plaintiff.

Endorsed: Circuit Court United States, Eastern District of Pennsylvania. October Sessions, 1888. No. 3. In Equity. The Holly Manufacturing Co. *vs.* The New Chester Water Co., *et al.* Replication.

R. L. ASHHURST.

Filed June 22, 1889.

SAMUEL BELL,
Clerk.

Agreement substituting James H. Little et al. as parties defendant in place of William Bucknell, deceased. (151)

HOLLY MANUFACTURING CO.

vs.

NEW CHESTER WATER CO., *et al.*

WHEREAS, William Bucknell, named as a defendant in above cause, having by Deed of Trust, dated March 28, 1889, transferred to James Little and wife, Craige Lippincott and wife, and Harry S. Hopper and wife, *inter alia*, all the securities held by him, either absolutely or as collateral security in the New Chester and South Chester Water Companies, in trust for the use and benefit of the said wives of the said James E. Little, Craige Lippencott and Harry S. Hopper, as in and by said deed particularly set forth and declared (the said wives being three of the children of the said William Bucknell), with the provision that the said three wives might delegate their whole power and discretion to the said three trustees above-named.

AND WHEREAS, the said William Bucknell departed this life, testate, on the 5th day of March, 1890.

AND WHEREAS, the amount of bonds and stock of The New Chester Water Company and South Chester Water Company, held by the said William Bucknell at the time of the commencement of the above entitled suit, and transferred by | said deed of trust, and held by the trustees (152) thereunder, is as follows:

As collateral security for the indebtedness of Samuel R. Bullock & Co.

300,000 South Chester Water Co. 1st mortgage bonds.
435,000 New Chester " " " " "
18,000 Shares New Chester Water Co. stock.
5,500 Shares South " " " "

As absolute owner

500 Shares of the South Chester Water Co. Stock.
2,000 Shares of the New " " " "

Now, it is agreed by all the parties to the above suit, and by the said James H. Little, Craige Lippincott and Harry S. Hopper, acting trustees under said deed of trust, that instead of filing a Bill of Revivor or Supplemental Bill, the said James H. Little, Craige Lippincott and Harry S. Hopper, acting trustees aforesaid, shall be substituted of record as parties defendant in place and stead of the said William Bucknell, and the answer on behalf of William Bucknell modified as above, and the evidence already taken subject to all legal objections thereto are accepted by said acting trustees as though they had originally been parties thereto, and the cause shall proceed in the same manner and with the same force and effect as if they had been substituted of record in place of William Bucknell immediately after the execution of the said deed of trust, by regular
(153) proceedings accor | ding to chancery practice, and that any decree which might otherwise have been made against the said William Bucknell, if said deed of trust had never been made and he were still living, shall be made against the said James H. Little, Craige Lippincott and Harry S. Hopper, acting trustees aforesaid; provided that no objection shall be made or taken, for want of parties, because the executors of the said William Bucknell or the wives of the said acting trustees have not been made parties to this proceeding.

Witness the signatures of the parties hereto this First day of April, 1890.

Wm. C. Hannis attorney for W. G. Hopper & Co.
and for Jas. H. Little, Craige Lippincott and
H. S. Hopper, acting trustees under the above-mentioned deed of trust.
Richard C. Dale for R. D. Wood & Co.
W. Ward by R. C. Dale for water companies

ROLAND EVANS
with ASHHURST,
for plff.

Endorsed: C. C. U. S. No. 3. October Sessions, 1888. Holly Manufacturing Co. *vs.* New Chester Water Co. *et al.* Agreement substituting James H. Little, Craige Lippincott and Harry S. Hopper, trustees, etc., as parties defendants in place of William Bucknell, deceased.

Filed April 9, 1890.

SAMUEL BELL,
Clerk.